

The Indonesian Council Ulama (MUI) and Religious Discourse In Indonesia

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Abstract

This article explores the role of the Indonesian Ulama Council (MUI) in religious discourse and practice in Indonesia. This article is based on library research using the theory of Critical Discourse Analysis by Norman Fairclough. The research uses the political approach of Islamic law in Indonesia. This article finds out the role of the MUI in the process of forming Islamic discourse in Indonesia. The MUI was designed by the New Order regime as a medium of communication between the government and the ulama. In reality, MUI served the government during Soeharto's presidency (*khodimul hukumah*). Nowadays, in the Reformation era, the MUI shifts its position to serve the Muslim community (*khodimul ummah*). The MUI has become a big umbrella for Muslims in which they have a significant role in forming religious discourse in Indonesia through its fatwa and non-fatwa products. Among the non-fatwa products are in the form of Recommendation (*Tausiyah*), Admonition (*Tadzkirah*), Instruction/Mandate (*Amanah*), Position Statement (*Pernyataan Sikap*) and Appeal (*Himbauan*). Although the fatwa and non-fatwa are morally binding, the government often accommodates MUI's products into a legally binding public policy. In this context, MUI has had an influence on the formation of religious discourse through the transformation process from religious authority to public policy.

Keywords: mui, fatwa, religious discourse, Indonesia.

Introduction

The emergence of MUI could not be separated from the relation between religion and the state in Indonesia.¹ Indonesia is not a religious state but Indonesia also is not a secular state, although Islamic norms influence the regulations of the state. The evidence base of this fact could be discovered in the first principle of Pancasila (the five principles of the basic Indonesian State). The first principle of Pancasila is derived from the national constitution, especially from passage 29 of the basic constitution of the Indonesian Republic in the year 1945. Indonesia has the largest population of Muslims while also being a democratic state. 87.2% of Muslims in Indonesia adhere to Islam as their religion.² Islam came into Indonesia mostly through trade routes by merchants from the Arabian Peninsula. Ideologization in this aspect was similar to the process of Islamization of the citizens of Indonesia. The term ideologization refers to the ideological character or interpretation especially to interpret in relation to a socio-political ideology often seen as biased or limited.³ Ideologization is more the process of the construction of a belief system within society as opposed to Islamization, refers to how Islam as a doctrine was advocated through the Muslim legal, political, and social systems comprehensively. It is manifested by the rise of various Islamic movements as proactive forces for political change and social development. Arskal Salim elaborated this process of Islamization in phases of Indonesian society on in his research.⁴

This discussion deals with the important issue of understanding the identity of Islamic Indonesia from its history, specifically the history of how Islam entered Indonesia. From the past to the present the relation Islam and state in Indonesia is the important topic, transforming Islam as a doctrine and belief system to the current system in the Indonesian State.

¹ For further reading see Muhammad As'ad, "Religion and Politics In Indonesia: Attitudes and Influences of The Indonesian Council of Ulama (MUI) on The General Election" (MA Thesis, Leiden, Leiden University, 2010).

² Population by Region and Religion. Sensus Penduduk 2010. Jakarta, Indonesia: Badan Pusat Statistik. 15 May 2010. Retrieved 20 November 2011. Religion is belief in Almighty God that must be possessed by every human being. Religion can be divided into Muslim, Christian, Catholic, Hindu, Buddhist, Hu Khong Chu, and Other Religion. Muslim 207176162 (87.18%), Christian 16528513 (6.96), Catholic 6907873 (2.91), Hindu 4012116 (1.69), Buddhist 1703254 (0.72), Confucianism 117091 (0.05), Other 299617 (0.13), Not Stated 139582 (0.06), Not Asked 757118 (0.32), Total 237641326

³ <https://fatwa.merriam-webster.com/dictionary/ideologize>

⁴ Arskal Salim, *Challenging Secular State: The Islamisation of Law in Modern Indonesia* (Honolulu: University of Hawaii Press, 2008), 60.

To answer those questions, I try to read back the history of the arrival of Islam into Indonesia.

Historical Background of MUI

MUI was founded by the government on July 26, 1975. The Council of Indonesian Ulama (MUI) has a strong influence among the Muslim society within Indonesia, representing Islamic organizations such as Nahdhatul Ulama, Muhammadiyah, Persatuan Islam and others. The emergence of MUI was influenced by dynamic politic and social climate in Indonesia, however MUI is not a government organization but an institution designed by the government. At least three political events occurred when MUI was formed. The first, according to Atho' Mudzhar, is the general elections of 1971 with the emergence of Golkar and the diminishing the role of Islamic parties. Secondly, was the convergence of multiple Islamic parties into one party. Lastly, was the introduction of the original secular draft for the marriage bill.⁵

MUI was inspired by President Soeharto during the grand opening of the workshop of the Council of Indonesian Muslim preachers in 1974. He suggested forming the Council of Indonesia Ulama at for two main reasons. The first was the urgency for the uniting of the Muslim community. The second was, solving national problems through enrolling the role of Ulama.⁶ 53 participants in the workshop, who later signed a commitment to form MUI, founded MUI. The first chairman of MUI, Haji Abdul Malik Karim Amrullah (Hamka), originally rejected the position of chairman, however finally, accepted the position as he argued that by taking up the position, the Muslim community has a partner for combating communist ideology. Another reason, according to Hamka, is in his opinion, by MUI having Islamic interests it could strengthen Islamic values within the country.

Though, MUI is not a state institution, the institution could not be separated from its relationship to the state. The institutionalization of the *Ulama* emerged during the new order era. There was a transformation of how the religious authority in Indonesia functions by converting it from an individual authority, to a collective authority. Nico supported this notion in his article stating that there was a shifting of the voice of *Uama* from individual to collective

⁵ Mohammad Atho Mudzhar, *Fatwas of The Council of Indonesia Ulama: A Study of Islamic Legal Thought in Indonesia 1975-1988*, bi-lingua (Jakarta: INIS, 1993); See also Muhammad As'ad, "Ulama in Indonesian Politics: Analysis on the Attitudes of The Majelis Ulama Indonesia (MUI) on the General Elections," *Akademika* 16, no. 1 (June 2022): 75-90, <https://10.30736/adk.v16i1.764>.

⁶ Mohammad Atho Mudzhar, *Fatwas of The Council of Indonesia Ulama: A Study of Islamic Legal Thought in Indonesia 1975-1988*.

Ulama.⁷ MUI became the umbrella organization for diverse Muslim groups. As members of MUI follow many different paths of Islamic thought, the consequence is the many different religious ideas, such as puritan groups, moderate groups, and liberal groups, all giving a different response to a problem. The diversity within MUI causes MUI to sometimes be moderate and in other times be puritan, also with the *wasathiyya* position, for some time MUI has had a puritan moderate position.⁸ MUI is the semi-government institution often being referenced by the government for religious authority in Indonesia. Although MUI does not state institution according to “Mahkamah Konstitusi” (Constitution court), it has become the defender and protector of religious orthodoxy in Indonesia.⁹ According to MK (Mahkamah Konstitusi/ The Constitution Court), the Indonesian government has no authority in deciding on the religious issues among the Muslim society, nevertheless the government has a partner to ask for consideration and opinions from the religious leaders to accommodate the collective rights. In this position, the religious leaders have the rights to interpret the religious doctrines related to the minority sects..¹⁰

There is a shifting paradigm of MUI from before to after the reformation era. Before the reformation era, MUI leaned towards being a *khodimul hukuma* (the servant of government), while after the reformation era MUI leaned towards being *khodim al umma* (the servant of Muslim Community). The first role supported the government and the second role accommodated the Muslim community in general. In relationship to this position, Atho’ Mudzhar elaborates the production of MUI’s *fatwa* are sometimes supporting the government, some of them opposing the government, and still others are neutral.

MUI, State, and Authority

Religion and state in Indonesia have a history of influence upon each other. Indonesia is not state based on religion, nevertheless is also not a secular state. The founding fathers have a consensus that the Indonesian state is a Pancasila state (The five principles as pillars of the state). The first principle is there is only one God. From this pillar, I present that religion is colours political system in Indonesia. Although Indonesia is not a state based on religion, the religious

⁷ Nico J.G. Kaptein, “The Voice of the Ulama’: Fatwas and Religious Authority in Indonesia,” *Archives de Sciences Sociales Des Religions* 125, no. January-March (2004): 115–30.

⁸ Moch Nur Ichwan, “Menuju Islam Moderat Puritan: Majelis Ulama Indonesia Dan Politik Ortodoksi Keagamaan,” in *Conservative Turn: Islam Indonesia Dalam Ancaman Fundamentalisme*, ed. Moch Nur Ichwan and Ahmad Najib Burhani (Bandung: Mizan Media Utama, 2014).

⁹ Zainal Abidin Bagir, “Defamation of Religion Law in Post-Reformasi Indonesia: Is Revision Possible?,” *Australian Journal of Asian Law* 13, no. 2 (2013): 7.

¹⁰ Ibid.

values influence the state policy and the process of political life. Although the basic principle of the Indonesian state was final, the debate on the contestation between Islam as the ideology of the majority of people in Indonesia still exists.

Muhammad Natsir states “as Islam was the religion of the majority, its followers should be granted the privilege to establish a state based on Islam.”¹¹ From this phenomenon, MUI is not something foreign in Indonesia but its existence is inherent to the characteristic of the Indonesian society. The existence of MUI, accommodates the majority as a representation of the democratic system, however on the other hand, the existence of MUI causes problems for other groups, especially for those who do not have the same of ideology, this including religious minority groups. The dynamic ideology concerning the relationship between the religious authorities and the state authorities still occurs in many aspects, including the relationship of majority and minority groups.

Before the establishment of MUI, the role of the Ulama was very significant. Since MUI's establishment in July 26, 1975, MUI has played the role in its function to bridge the state and Islamic society in Indonesia regarding the religious problems. MUI has been designed by the Soeharto era as the Indonesian president's solution to the religious matters on one side, but also to support the government programs on another side. MUI is watching over (sometimes the policing of ideology) religious life and religious harmony in Indonesia. MUI has two main role in the relationship between the state and civil society. One is as a mediator between the state and Muslim scholars in Indonesia which intends to unify the role of Ulama in Indonesia by having fatwa's issued by multiple Ulama instead of individual. While the other is a controller on religious life by issuing fatwa (Islamic legal opinion) and other products of religious opinion

The Ulama, whether in an individual or collective position, has a special position within Muslim society in Indonesia. The Ulama throughout the history of Indonesia have endeavored to provide guidance for Muslims, in other words providing leadership for Muslims. The process of Islamisation in Indonesia occurs fast, especially after the emerging of a mass organization such as Muhammadiyah and Nahdhatul Ulama. The charisma of the Ulama, such as Ahmad Dahlan¹² and

¹¹ Mohammad Natsir is prominent figure on the debate on the formulation of Indonesia; between the nation state or Islamic state ideology I Indonesia. He was born in West Sumatra on 17 July 1908 and died on 6 February 1993 and has been recognised as the propagator of the Islamic state ideology in Indonesia. He was General Chairman of the Masyumi party, and the founder of the Dewan Dakwah Islamiyah Indonesia - Council of Islamic Propagation of Indonesia or DDII. For further explanation see Thohir Luth, *M. Natsir: Dakwah Dan Pemikirannya* (Jakarta: Gema Insani, 1999), 26.

¹² Regarding Ahmad Dahlan see Sutrisno Kutoyo, *Kiai Haji Ahmad Dahlan Dan Persyarikatan Muhammadiyah* (Jakarta: Balai Pustaka, 1998); Abdul Munir Mulkhan, *Kiai*

Hasyim Asy'ari,¹³ are powerful amongst the Muslim society in Indonesia. Both mass organizations are the biggest in Indonesia. The role of Ulama in Indonesia is significant to transform the Muslim society in Indonesia, by using the *Amar ma'ruf nahi munkar*, Ulama endorses the Islamic propagation of its message for religious life. The role of Ulama is not only for solving the religious problems, but also have become agents of change within the Muslim society and social movement. Although the struggle of the Ulama to transform Islamic propagation is differs from each Ulama, some clerics are concerned with Islamic teaching at Islamic boarding schools while others are concerned with political contestation. The power of the Ulama in the struggle and fight against Dutch colonialism was full of activity. Atho Mudzhar also paid attention, in his dissertation,¹⁴ to the role of Ulama in the earlier period of the fight against Dutch imperialism. The actor of this fight generally were the kyai. The kyai is a public figure in Muslim society, especially who has an Islamic boarding school. Someone was called by the Ulama if they had qualifications in society and due to these qualifications, the Ulama become a social and religious leader in society. The qualifications for the Ulama as religious and social leaders must be an intellectual one,¹⁵ having the ability to master the religious knowledge and religious teachings which places a social trust upon them. The second qualification is that they must function in society. In other words, the Ulama commonly have a social role, especially on with religious rituals, as well as becoming a consultant of the religious problems in society. The third qualification is a social status aspect on two models. The first model is a vertical status that Ulama has a position in a mass organization such as NU or Muhammadiyah¹⁶ or MUI, furthermore on the horizontal model, the Ulama do

Ahmad Dahlan: *Jejak Pembaruan Sosial Dan Kemanusiaan* (Jakarta: Penerbit Buku Kompas, 2010).

¹³ On Hasyim Asy'ari see among others Lathiful Khuluk, *Fajar Kebangunan Ulama; Biografi KH. Hasyim Asy'ari* (Yogyakarta: LKIS Pelangi Aksara, 2000); Zuhairi Misrawi, *Hadratussyaikh Hasyim Asy'ari: Moderasi, Keumatan, Dan Kebangsaan* (Jakarta: Penerbit Buku Kompas, 2010); Muhammad As'ad, "Mengapa Jepang Memilih Hadratussyaikh: Analisa Sejarah Ditunjuknya KH. Hasyim Asy'ari Menjadi Ketua Masyumi," *Tebuireng: Journal of Islamic Studies and Society* 1, no. 1 (2020): 85-103, <https://doi.org/10.33752/tjiss.v1i1.1656>.

¹⁴ Mohammad Atho Mudzhar, *Fatwas of The Council of Indonesia Ulama: A Study of Islamic Legal Thought in Indonesia 1975-1988*, 45.

¹⁵ Greg Fealy, *Tradisionalisme Radikal; Persinggungan Nahdlatul Ulama-Negara* (LKIS PELANGI AKSARA, 1997), 23.

¹⁶ On fatwa on Muhammadiyah see Syamsul Anwar, "Fatwā, Purification and Dynamization: A Study of Tarjih in Muhammadiyah," *Islamic Law and Society* 12, no. 1 (2005): 27-44; On the practice of fatwa in Muhammadiyah see one of them Muhammad As'ad, "The Muhammadiyah Criticism against Mawlid Tradition over Centuries," *Journal of Indonesian Islam* 13, no. 2 (2019): 350-72.

not necessarily need to have a position in structural organization, however need to have an Islamic boarding school in their region. The fourth qualification is the familiarity and relationship between Ulama to other Ulama. This phenomenon is especially for the traditional Ulama in Islamic boarding schools who have the position based on a family networks through marriage. In this relationship, the earliest family gets elected to continue the leadership of their Islamic boarding school.

The struggle of the Ulama is not limited to social and religious aspects, but also extends to political media. They believe that political media is more effective to implement the public good. But in 1966 the government to religious aspects only limited the role of the Ulama. This limitation caused many of the Ulama to revert back to religious teaching, running their Islamic dormitory and becoming as Islamic propagators (*da'i/ Muballigh*).¹⁷ After the limitation of their role within the political sphere the Ulama looked for new types of media to transform the spirit of *amar ma'ruf nahi munkar*.

The establishment of the Indonesian Council of Ulama (MUI) cannot be separated from the efforts of the Centre for Indonesian Islamic Dakwah Activities, PDII.¹⁸ From September 30, 1970 until October 4, 1970 PDII held an Islamic Ulama conference in Jakarta making an agreement to make a new type of media to accommodate the Islamic leadership on religious problems. This agreement continued during the national conference of propagators in 1974, with the results of this meeting being the realization that there is an urgency to make the Council of Ulama in every district in Indonesia. President Soeharto supported this idea at the preamble of the speech at the conference. After this congress, on 24 May 1975, President Soeharto encouraged to support the Council of Ulama to have the mandate to give a fatwa. Soeharto argued two reasons for creating the Council of Indonesian Ulama, the first reason is the government expected Muslim people to be united and avoid disintegration. The second is that the national problem needs the Ulama to be involved to be solving issues. After this statement by Soeharto, Amir Mahmud, a minister of the internal affairs recommended making the Council of Indonesian Ulama in all regions and local districts in Indonesia.¹⁹

During the Soeharto era, the pressure to form the Council of Indonesian Ulama great, and on 1 July 1975, the government through the ministry of religious affairs prepared the committee the Council of Indonesian Ulama at the national level. Four people were identified to handle this committee: fatwa. Sudirman from TNI (National Army of Indonesia), Hamka, KH. Abdullah Syafi' i

¹⁷ Mohammad Atho Mudzhar, *Fatwas of The Council of Indonesia Ulama*, 54.

¹⁸ Syamsul Hadi, "The Indonesian Council of Ulama," *Indonesia Circle. School of Oriental & African Studies. Newsletter* 18, no. 50 (1989): 31-41, <https://doi.org/10.1080/03062848908729718>.

¹⁹ Mohammad Atho Mudzhar, *Fatwas of The Council of Indonesia Ulama*, 55

and KH. Syukri Ghozali. After three weeks, this committee prepared the national congress, lasting from July 21, 1975 to July 27, 1975, with its participants from the Indonesian Ulama from every region in Indonesia. In this meeting an agreement was made and Hamka was declared, by the forum, to become the general leader of the Council of Indonesian Ulama. Hamka accepted this mandate, indicating he would like to fight to the communist ideology in collaboration with the government as they, during the Soeharto era, were against the communist ideology. Besides that reason, Hamka also argued, through new institutions made up of a Muslim scholar, such as like MUI, a trust and cooperation between the government and the Ulama could be built.

The government supported the establishing of MUI. The role of the government in the process of emerging MUI is powerful, with President Soeharto's views given to MUI being:

- a) The duty of Ulama is enjoining what is right and forbidding what is wrong.
- b) The Council of Ulama is a translator of government programs for the Indonesian Muslims.
- c) The Council of Ulama is an advisory Council for the government in religious matters.
- d) The Council of Ulama is an intermediary between government officers (umara) and Ulama.
- e) The Council consists of representatives of all Islamic organizations while the government acts as its patron and adviser.
- f) The organization of the Council of Ulama is not a political organization.²⁰

Based on the statement made by President Soeharto, it is clear that the function of MUI, according to the government. Besides being a consultant of religious matter, the Ulama supports the relationship between the *umara* and government, as well as supports the government program for the Muslim society in particular and Indonesian people in general. The process of the establishment of MUI was done easily due to the support from the government at that time. This included the establishment of MUI in local districts of every province in Indonesia. Focusing on the historical background of the establishment of MUI, why was the government highly interested in supporting MUI and why was it that before and after the formation of MUI was there needed a long time (about five years) to negotiate with the Ulama in Indonesia?

To answer the above questions there were three important political events before the establishment of MUI to be noted. The first political event is the second general election in 1971 with the emergence of the GOLKAR party and

²⁰ Syamsul Hadi, *The Indonesian Council of Ulama*, 36

the regression of the Islamic party in Indonesia. The second is the convergence of the Islamic parties without Islam as a symbol of the new party. The third political event is the issuing of a draft on marriage regulation (*Undang Undang Perkawinan*) that presented a secular form of the original regulation.²¹ Because of these events, the Indonesian Ulama, including Hamka, had rejected the government's idea to endorse MUI as a semi-state institution in Indonesia. The term semi-state institution is used because government during the earlier period of the establishment supported MUI. During the beginning of MUI, the minister of Religious Affairs, Mukti Ali, gave a sermon to all of the Muslim scholars in order to abolish distrust between *umara* and *Ulama*. The government also expected MUI to support the program and harmonization among Muslim society. Based on the preamble of President Soeharto, he expected MUI to become mediator and consultant of the government in implementing its program for the citizens. Although MUI was supported by the government, the product of MUI fatwas was not automatically supported to government. Mudzhar, in his dissertation, mentions that some of MUI's fatwa's were supporting the government, some of them contradicting the government, such as about the "Selamat natal" (greeting for Christmas celebration) for Muslim people, while others were neutral fatwas.²²

Based on Mudzhar's previous research, I argue that political interests surrounded MUI, in the process of its establishment. Nevertheless, MUI's fatwa's were not automatically manifested on only the political point of view, but also refer to the religious resource and through process and procedure of production of the fatwa. However, to be clear and distinct, whether MUI's fatwa's represent the government's interest or the *umara's* interests is not a simple question but needs more analyzations on the background, process and procedure and the atmosphere of each fatwa.

The argument that the process of the establishment of MUI during the Soeharto era was nuanced by political interests is supported by many ideas about the strong connection between the politics, state, and religious authority. As Mudzhar mentions in his dissertation that there were three political events before the establishment of MUI,²³ C. Van Dijk, in his article, also discusses this situation. In his explanation, Van Dijk states that MUI, at the time, was in a problematical position between the desire of government and the conviction at least part of the Islamic community. In this position sometimes, the MUI attitude is seen in an absence of the fatwa on a particular matter such as, ambitious government policies intended to stimulate economic development and national

²¹ Mohammad Atho Mudzhar, *Fatwas of The Council of Indonesia Ulama*, 62

²² *Ibid*, 119

²³ *Ibid*.

unity.²⁴ Based on this idea, Hooker also stated that MUI's position and its main functions (especially from 1975 to the 1990s) were to support and to justify governmental policies.²⁵

Ichwan's conclusion also states that MUI and its political expressions can be regarded as suppressed by the New Order government. This fact is seen though the fatwa's being both resisted by government policy and oppressed by the regime.²⁶ As quoted from Ichwan's statement in his article: "MUI's relationship with the government was articulated not only by the fatwas it issued, but also by its silence concerning certain state policies and programs. Such silence often reflects MUI's position in the dilemma between the role of religious authority and the partner of government including the political interest. In this position, MUI creates a feeling of being powerless which is felt by many Muslims in relation to the state, as with the question of a government-supported sports lottery and the Tanjung Priok massacre of 1984."²⁷

The previous statement by Hooker, Mudzhar, Van Dijk and Ichwan tell us that the process of establishment of MUI had many political interests. During the Soeharto era, political stability was needed to sustain development and was not found if there were any conflict between Ulama and umara in social-religious matters. The process of the establishment of MUI went from the idea to the agreement of MUI and the declaration taking a long time (need more 5 years), due to its emerging suspicions between Ulama and umara. Hamka, as the first chairman of MUI, declined the offer as first general chairman of MUI, nevertheless Hamka has two reasons to accept this position. The first is to fight the communist ideology and there was a need for a stronger, more superior ideology, Islam. The second is according to Hamka the government is still distrustful of the Islamic society, although they have good intentions. The good will of the government to the Muslim society as a major citizen in Indonesia is not so easily accepted, because the claims of the government are secular and false.²⁸

This position between MUI and the government actually has mutual symbiosis, however the dynamic situation of MUI from the different chairmans is also a different problem. The power struggles between the government who has a power authority and MUI who has a religious authority tend to influence each

²⁴ Cees van Dijk, "Religious Authority, Politics, and Fatwas in Contemporary Southeast Asia," in *Islamic Law in Contemporary Indonesia, Ideas and Institutions*, ed. R. Michael Feener and Mark E. Cammack (Cambridge: Harvard University Press, 2007), 47.

²⁵ Michael Barry Hooker, "Islam and Medical Science: Evidence from Malaysian and Indonesian Fatāwā, 1960-1995," *Studia Islamika* 4, no. 4 (1997): 1-33.

²⁶ Nur Ichwan, "Ulama, State and Politics: MUI after Suharto," *Islamic Law and Society* 12, no. 1 (2005): 45-72.

²⁷ Ibid.

²⁸ Muhammad Atho' Mudzhar, *Fatwas of The Council of Indonesian Ulama*.

other. On one hand, the government has interests to produce public policies which need to support from Ulama, furthermore Ulama also has interests in the public policies produced by government if they are not contradicting Islamic law. However on another hand, Ulama needs the government to make sure the Islamic value could be held in their government policies. Although MUI was a product of the government during the Soeharto era and tends to only give advice, religious opinions (fatwa), as well as guidance to society, MUI has two types of media to guide the society and government. The first type is through fatwa discourse and the second media is the non-fatwa discourse. The non-fatwa discourse consists of recommendations (*Tausiyah*), admonitions (*Tadzkirah*), instructions/mandates (*Amanah*), position statement (*Pernyataan Sikap*), appeal (*Himbauan*), and thought contribution (*Sumbangan Pemikiran*).²⁹

In the relationship between the role of religious authority and the state authority, I believe MUI, in this position, is simply a fatwa generator on religious problems among the Muslim society and not in the practical acts. More than that, MUI was not expected by president Soeharto to have political practices, although in the reality behind the establishment, MUI is more political nuance. Soeharto at the beginning of its establishment stated this position of MUI. MUI is in between the position of the constellation between the Ulama and umara, and between the state and civil society and, lastly, between Islam and democracy. MUI also has mandate to create a harmonic relationship among Muslim organizations throughout Indonesia. However, the government has interests in making controlling and monitoring the Ulama easy, especially on the issue that became an overlapping issue between the state and religion.

Based on the previous analysis I think MUI tends to be “the government for Ulama” as Martin Van Brunnisen says in his article, “its function to translate government policy into a language that the *ummah* understands.”³⁰ MUI was expected by the government to be a bridge between the Ulama and the state, and between the state to various Islamic organizations in Indonesia. In the new order during Soeharto’s era, the power of the Islamic community is a challenge to realize the government policy. Other functions of MUI are issuing fatwa’s concerning deviant sects and protecting the umma from the heterodox doctrines. MUI also has become a representation of the Muslim community to face other religions in responding to some problems in the social forum in general.

Although the Indonesian state is not a religious state nor secular state, but the product of public policies often refers to religious values, especially to Islamic values. As Mahfud MD said, that many Islamic countries have the official mufti

²⁹ Nur Ichwan, “Ulama State and Politics: MUI after Suharto”, 51.

³⁰ Martin van Bruinessen, “Indonesia’s Ulama and Politics. Caught between Legitimising the Status Quo and Searching for Alternatives,” *Prisma -The Indonesian Indicator (Jakarta)* 49 (1990): 52–69.

who gives the fatwa to the state. Muftis were chosen by state to give some Islamic legal opinion, however, to enforce the product of their fatwa's were done by the state because only the state has an authority to enforce the fatwa's on its citizen. Ma'ruf Amin also said the position of MUI is for government institutions to ask MUI for fatwa's to solve religious and social problems. The members of MUI come from many Islamic mass organizations in Indonesia, so fatwa's of MUI come from different religious schools of thought. As Nico Captain said modern era fatwas are produced by collective mufti and were not produced by individual mufti,³¹ thus fatwa's will be legitimized by Muslim society. Although the power of fatwa are simply just morally binding and not legally binding, public policies, however, in the new government era were inspired by and referred to the fatwa's.

MUI, after the new order era, transformed from a service for government to umma service (*khodimul umma*).³² MUI after the new order era, especially under Abdurrahman Wahid, was in a more independent position. The impact of this position caused its products to not only accommodate the government but also to accommodate the Muslim society as majority in Indonesia. On one hand, MUI actually supports the ideology of the state who was primarily a unitary state based on the Pancasila, being an umbrella under the law in Indonesia. On the other hand MUI also supports Islamist organizations who tend to struggle on implementing the legalization of sharia or Islamization of the system of public policy in Indonesia. Syafiq Hasyim states in his dissertation that MUI is in two positions. In one position MUI accepted the Pancasila as an ideology of the state, but not as the ideology of its own organization. While on the other MUI states that religion must be the primary inspiration and guidance for managing the country.³³ This position was chosen by MUI to harmonize the religiosity (*keagamaan*) and nationhood (*kebangsaan*). MUI states that harmonization between religion and nation is required for a religious relationship. In this position the major Islamic thought became dominant in influencing and inspiring the public policies from the government in Indonesia. In this case, sometimes it became problematic between the process of democratization and protecting the religious minority groups's in their rights and freedom.

As Ichwan states in his article, MUI also has two paths of thought. He states MUI was "puritan moderate,"³⁴ because it tended to lean towards the

³¹ Nico JG Kaptein and Michael Laffan, "Theme Issue: Fatwās in Indonesia," *Islamic Law and Society* 12, no. 1 (2005): 1-8.

³² Nur Ichwan, "Ulama State and Politics: MUI after Suharto", 61.

³³ Syafiq Hasyim, "Council of Indonesian Ulama (Majelis Ulama Indonesia, MUI) and Its Role in the Shariatization of Indonesia" (PhD Thesis, Berlin, Freie Universität, 2014), 51-52.

³⁴ Moch Nur Ichwan, "MUI, Gerakan Islamis, Dan Umat Mengambang," *Ma'arif Institute* 11, no. 2 (December 2016): 87.

conservative side of Islamic thought. However, MUI is also moderate as MUI adopted the *wasathiyah* paradigm in solving the problem amongst the Muslim society. Hasyim and Ichwan agree that MUI tend to be in between this position. Members of MUI influence these positions, with MUI members coming from diverse Islamic organizations, including their background of ideology. The result of the collective *ijtihad* was influenced by the contesting between the members of MUI, especially those in fatwa commission. Sometimes a more moderate position is taken, but other times a more conservative one is taken, all depending on the ideas among muftis involved on the process of production of fatwas.

MUI and the Fatwa Production

MUI and fatwa's are an inseparable entity, like a coin with two sides. Beside MUI becoming a bridge of communication between the Ulama and government, and between Muslim community with government, MUI's core is the issuing of fatwa's. As mentioned before, MUI comes from various mass Islamic organizations in Indonesia to making the production of fatwa, also having various ideas, all depending on who has the power influences its production. The main mandate of MUI is giving the fatwa to those areas in need of fatwa. Fatwa's are the response and answer to questions and problems in the Muslim society. Fatwa's also require a response for the government to consider the production of public policy.

MUI has a special department to produce fatwa's known as the fatwa commission. The fatwa commission, since its establishment, had had four leaders. The first leader was K.H. Syukri Ghazali (1975- 1985). Ghazali had come from Nahdhatul Ulama Organization and is well known for *faqih knowledge*, especially the Shafi'i's school. The second leader was K.H. Ibrahim Hosen (1981-2000)³⁵ who was a Muslim Scholar and graduated as a Professor. Hosen was known as having a liberal view and accommodative attitude and view. The third was K.H. Ma'ruf Amin who was trained in an Islamic boarding School in Tebu Ireng Jombang. Ma'ruf Amin also continues his studies in an Islamic college in Banten and his higher education in Department of Ushuluddin the University of Ibnu Khaldun (1967). He is a prominent figure in society on the production of MUI fatwa during 1990 until now. During 1995-2000 he was the vice chairman of the Fatwa Commission. Then 2000-2005 became the chairman of the fatwa Commission again. He is well known for the cleric movement and is active in addressing social problems. Ma'ruf Amin became a member of parliament in Jakarta as well as a member of National Parliament. Now, however, he is the general chairman of MUI in Indonesia. The fourth Chairman of Fatwa Commission, Dr. K.H. Anwar Ibrahim (2007- 2010), trained in Al Azhar University, Egypt and is a lecturer at the Institute of Qur'anic Science in Jakarta. Ibrahim also became the secretary of Shuriah, *Nahdhatul Ulama*. Prof. Dr.H.

³⁵ Muhammad Atho' Mudzhar, *Fatwas of The Council of Indonesian Ulama*, 80.

Hasanauddin AF, MA (2010- 2015), the fifth chairman, got doctoral degree in the Institute of Islamic Studies (IAIN) in Jakarta. Overall, the Fatwa commission has had six members that have lead as the coordinator or the chairman, each with five year periods..

I highlight that the most of the chairmen for fatwa commission come from Islamic mass organizations in Indonesia, especially from Nahdhatul Ulama. Most come from NU, Muhammadiyah, and an academic background, educated in Institute of Islamic studies (IAIN), especially in the Sharia faculty and some studied in the Middle East such as Al Azhar University.³⁶ Furthermore, others were educated in Islamic boarding schools. The mainstream Islamic jurisprudence's school is shafi'i, which is the biggest influence on the process of production of the fatwa's.

Before a fatwa is published, the fatwa commission does a comprehensive study to explore the complete description of the problem, the formulation of problem; the impact of society and religious issues, such as core conflicts with Islamic norms, are heavily related to the problems. The comprehensive study includes the analysis of previous scholars of Islamic jurisprudence from prominent Islamic scholars, including the opinion of *fuqoha*, the study on fatwas relating to the problem, and the opinion of Muslim jurists. The comprehensive study is either delivered to a member of the fatwa commission or an expert on formulating the fatwa. The problems that are worked through are: 1. The prominent problem with religious matters is made priority. The second issue is the debated issue among Islamic jurisprudence school. Issuing a fatwa is first based on the notion of conclusion through the method of *aljam'uwa al taufiq* (integration and appropriation). If no conclusion is found, the fatwa will discusseby *tarjih* (finding the strong argument), through the comparing of Islamic legal theories. If still no solution is found, the fatwa commission will move on to collective *ijtihad* through methods of *bayani* (interpretation and understanding to the text) and *ta'lili*(Islamic legal reasoning by analogy approach) including the methods of rabiul awwal *qiyasi*, *istihsani*, *ilhaqi* and *sad dzara'i* and other muslim scolars. If, during the discussion forum, no agreement is made, looking at different opinions with each argument will produce the fatwa. The decision, however, is commonly made through the *ihtiyath* (the carefully method) and tends to not go to the polemic of opinion (*khuruj min al khilaf*).

The process and procedure in the production of a fatwa is actually based on three steps:

³⁶ Bahrul Ulum, *Ulama Dan Politik : Nalar Politik Kebangsaan Majelis Ulama Indonesia (MUI)* (Yogyakarta: Pustaka Pelajar, 2015), 114-15.

1. The fatwa must refer to the Al Qur'an and *Sunnah mu'tabarah* and also the fatwa's are made sure so to not contradict the public interests.³⁷
2. If the fatwa commission does not find the AlQur'an and Sunnah, the fatwa production should not contradict with the *ijma'*, *qiyas*, *maslahah mursalah*, *sad dzari'ah*.
3. The fatwa commission produces a fatwa after exploring the previous resources of the opinions coming from *Imam Madzhab* (the leader of Madzhab).

The procedure of a meeting for the production of a fatwa is to attend the meeting, which can be a discussion forum. In some cases, experts on the problem are invited to the meeting to help issue the fatwa. The fatwa commission produces the fatwa if any question from society or the government arises or even by MUI, which is often based on the contemporary progress of science and technology. The meeting will lead by the chairman and vice chairman. The secretary and vice secretary of the Fatwa Commission support the chairman during the process of discussion. If the chairman of the fatwa commission does not attend the meeting, the vice chairman will take his place in leading the discussion. The secretary and the vice secretary take notes of the comments, suggestions and feedback of the discussion in order to document and consider the fatwa production.

The fatwa begins by a numbering of the fatwa, followed by the topic of the fatwa, with the *bismillahirrahmanirrahim* as the first statement. The fatwa also includes things such as the background, argument and the urgency for issuing the fatwa. The fatwa also includes the basics of the Islamic argument (*adillah al ahkam*) and translation of *syar'i* texts. The fatwa also gives an explanation for the usage of text argument, such as the opinion of Islamic scholars, as well as the opinion from members of the meeting that supported to the fatwa. The content of a fatwa includes general limitations, as well as the definition and general terminology related to the fatwa if needed. The last of a fatwa's content is a recommendation or solution to the problem. There may be attachments to the fatwa document if it requested. The fatwa is then signed by the chairman and general secretary of the fatwa commission. A point of a fatwa that needs further explanation will be given the appropriate explanation.

In his dissertation, Ansori also elaborates the basic argument for the issuing of MUI's fatwa's which is from the al Qur'an and Sunnah. If the argument was found in the AlQur'an and Sunnah, the fatwa commission will issue them.³⁸ However, if the fatwa commission does not find a supporting argument from the books, they will ask for Islamic scholar's opinion as a resource of Islamic

³⁷ Tim Editor, *Himpunan Fatwa Majelis Ulama Indonesia* (Jakarta: Sekretariat Majelis Ulama Indonesia, 2010), 861.

³⁸ *Ibid*, 2.

jurisprudence. If they did not find it, they will use the Islamic legal maxim as the argument for Islamic legal reasoning.³⁹

The other method for the production of a fatwa is through an annual conference that is comprised of many Muslim scholars from MUI that discusses the problems, including the argument of Islamic law. After having an agreement for a solution to the problem, it is then the Fatwa Commission's responsibility for providing the fatwa.⁴⁰ Then the Fatwa Commission will discuss the problem and formulate the fatwa as usual. Finally, the decision of the Fatwa Commission is announced to the Islamic society.⁴¹

Mufti produces MUI's fatwa with many factors behind them. Mudzhar highlights that fatwa do not occur in an empty sphere, nevertheless are formed from many factors. The surrounding behind fatwa production, on a micro level, depend on the background of Mufti.⁴² Most come from the NU and Muhammadiyah Universitas, and have Doctorate degrees. Due to MUI acting as a big umbrella for many Islamic mass organization, MUI has to accommodate their aspirations. As Ichwan mentions in his article that MUI tends to lean towards a puritan moderate view for the production of fatwa's.⁴³

³⁹ Ansori, *Penggunaan Qowa'id Fiqhiyyah Dalam Fatwa Fatwa Majelis Ulama Indonesia (MUI)* (Yogyakarta: Yogyakarta: Pasca Sarjana UIN Sunan Kalijaga Yogyakarta, 2018, 2018).

⁴⁰ Mohammad Atho Mudzhar, *Fatwas of The Council of Indonesia Ulama: A Study of Islamic Legal Thought in Indonesia 1975-1988.*, 68-69.

⁴¹ Ulum, *Ulama Dan Politik: Nalar Politik Kebangsaan Majelis Ulama Indonesia (MUI)*, 123.

⁴² Most of MUI muftis were graduated in Institute of Islamic studies (IAIN), some of them also graduated from the Middle East Universities, and the other graduated from India University, Pakistan University, Malaysia University and Leiden University (each of them only one person). While the member of MUI- one person- also graduated from UI (University of Indonesia), University of Nahdhatul Ulama is one person and Institute for Quranic Studies (IIQ) Jakarta also one person. If we analyze from their formal education only 5 persons (12,5%) were trained in Islamic boarding School. While 15 % or 6 persons come from bascelor (S-1), 10 persons were magister, 12 persons were doctor and 12 persons were professor. Based on the data the highest of the member of MUI are Doctor. If We analyze from their Islamic mass organization background most of them come from NU, Muhammadiyah and academic persons. For further information see Bahrul Ulum, *Ulama dan Nalar politik*, 114-116. He received from the MUI documentation of Vice Secretary of MUI fatwa, Muhammad Amin Ya'cub.

⁴³ Moch Nur Ichwan, "Menuju Islam Moderat Puritan: Majelis Ulama Indonesia Dan Politik Ortodoksi Keagamaan," in *Conservative Turn: Islam Indonesia Dalam Ancaman Fundamentalisme*, ed. Moch Nur Ichwan and Ahmad Najib Burhani (Bandung: Mizan Media Utama, 2014); See also Moch. Nur Ichwan, "The Local Politics of Orthodoxy: The Majelis

Mudzhar noted the trend of twenty-two of MUI fatwa in three categories: the majority of MUI fatwas (11 fatwa's of this category), the neutral fatwa; the supportive fatwas (includes eight fatwa's); the opposition fatwa (which makes up only a few of all fatwa's), such as the fatwas on Christmas celebration.⁴⁴

After the reformation era, MUI shifted their orientation from *khodimal hukumah* (the servant of the government) to the servant of the community/Ummah. This orientation influences the outcome of a fatwa to more accommodate the community aspirations.⁴⁵ MUI considers producing a fatwa, to not only accommodate the government aspiration nor just the Islamic community, but also the community's public good (*Kemaslahatan Umum*). Nevertheless, MUI was designed by government of new order era through institutionalization of Ulama and is reasonable to say that MUI often represents the government interests. In the process of issuing a fatwa, there are many nuances surrounding them such as law, politics, and sociology and protecting the orthodoxy. This fact based on the production of fatwa in minority sects includes the fatwa on Shi'a and Ahmadiyah. The fatwa becomes reference for the production of public policies from the Indonesian government.

Using the critical discourse analysis, fatwa can be seen as a part of discourse that is expressed by language. Mufti working in MUI come from various backgrounds, mostly puritan moderate, which then have influence on the discourse of MUI's fatwa's. Fairclough's CDA theory has made fatwa's to not only be a text, but also an exercise of power. With each fatwa there is a puritan moderate ideology. This mainstream background of the Mufti in MUI constituted the fatwa against Shi'a, even on national level or local level.

On the micro level of MUI, there are various Islamic organizations such as NU, Muhammadiyah, PERSIS and others. However, on the mezzo level of the Fatwa Commission, the mainstream of MUI teds to the puritan ideology that has a conservative thought rather than progressive.⁴⁶ While on the macro level,

Ulama Indonesia in the Post-New Order Banten," *Journal of Indonesian Islam* 6, no. 1 (2012): 166, <https://doi.org/10.15642/JIIS.2012.6.1.166-194>.

⁴⁴Mohammad Atho Mudzhar, *Fatwas of The Council of Indonesia Ulama: A Study of Islamic Legal Thought in Indonesia 1975-1988.*, 122.

⁴⁵ Syafiq Hasyim, "Fatwa Aliran Sesat Dan Politik Hukum Majelis Ulama Indonesia (MUI)," *Al-Ahkam* 25, no. 2 (2015): 245.

⁴⁶ This phenomenon occurred on the issuing the fatwa in fatwa commission. According to Khamami Zada who becomes the member of MUI in national level stated that the contestation between progressive and puritan thought oftenly the puritan thought becomes the mainstream of the influence on the production of fatwa in fatwa commission. This evident describes us that the discourse on fatwa was shaped by the conservative thought rather than progressive thought. This data was observed by the interview with Khamami Zada at march of 2018 at Santika Hotel, Jogjakarta, at 14.00.

contestation between global politics and the mainstream ideology, often is in a moderate position, which still tends to have a puritan and conservative thought rather than progressive thought.

Conclusion

The Indonesian Council Ulama is part of the historical process of how the relationship between Islam and the state in Indonesia is dialectical to one another within the framework of the dynamics of democratic politics in Indonesia. Indonesia is not a religious state but it is also not a secular one. Islam needs the state to implement its religious values in society, but the state also needs religion in order to become a source of inspiration in the formulation of state policies. In this context, MUI has a strategic position because it is a manifestation of the process of institutionalizing Islamic norms in Indonesia.

The process of institutionalizing Islamic norms is the process of how the values and norms of Islamic norms are accommodated by the state into a public policy or legal rule that is binding on citizens, especially those who are Muslim. The process of institutionalizing Islamic norms in Indonesia is not only with the formation of the MUI, but also other institutions such as the Ministry of Religion, the Indonesian Association of Muslim Intellectuals (ICMI), the Indonesian Mosque Council (DMI) and other similar institutions. MUI has played a strategic role in playing the role of Islamic discourse in Indonesia through its fatwa both at the central and regional levels.

In general, MUI can be regarded as a semi-state institution. Because of its history, the MUI was formed by the state during the time of President Soeharto, which serves as a communication bridge between the government and the ulama on one hand, but on the other hand, it can be a means of government control over Muslims in Indonesia. MUI in Indonesia can be said to have a strategic role in producing Islamic discourse in Indonesia through fatwa and non-fatwa products (recommendation (*tausiyah*), admonition (*tadzkiarah*), instruction/mandate (*amanah*), position statement (*pernyataan sikap*), appeal (*himbauan*), and thought contribution (*sumbangan pemikiran*). In the eyes of Fairclough, the MUI fatwa has played a role in Islamic discourse in Indonesia because the fatwa is not only an "Islamic legal opinion" but also an "exercise of power". In this context, the fatwa often submitted by the MUI is accommodated by the state into public policies or formal rules that are binding on citizens, especially those who are Muslims.

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