

Pradana Boy Zulian

Fatwa in Indonesia

An Analysis of Dominant Legal Ideas
and Mode of Thought of Fatwa-Making
Agencies and Their Implications in
the Post-New Order Period

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Introduction

Background

This book seeks to examine Islamic legal opinion (*fatwā*) in the post-New Order (*Orde Baru*) Indonesia issued by three major *fatwā*-making agencies (*dār al-iftā'*) in the country namely *Majelis Ulama' Indonesia* (MUI), *Majelis Tarjih Muhammadiyah*, and *Lajnah Baḥth al-Masāil Nahdlatul Ulama'* (LBM-NU). It elucidates the key features of these agencies and the distinctive methods they utilize in crafting their legal opinion (*fatwā*). It also examines major factors conditioning the genesis of legal opinion (*fatwā*) selected. Nevertheless, it should also be made clear from the outset that this book does not aim at in-depth socio-historical analysis conditioning the making of legal opinion (*fatwā*). Another central issue analyzed is how competing modes of thought condition as well as reflect the production of legal opinion (*fatwā*) within the respective agencies. Furthermore, how legal opinion (*fatwā*) serve as a site for competing mode of thinking of dominant agencies within the Muslim community of Indonesia will be explored.

The overriding interest of this book is in understanding the implications of Islamic legal opinion (*fatwā*) on Indonesia's plural society and the extent to which it facilitates adaptation to the demands of rapid social change confronting the community. While there has been a vast number of legal opinion (*fatwā*) pronounced by these organizations within the period selected, this book will focus on legal opinion (*fatwā*) that have strong implications on the lives of Muslims within Indonesian society as they attempt to adapt and adjust to the demands of change and challenges of the plural society in which they live. Legal opinion (*fatwā*) on sectarianism and interreligious relations, major aspects of rituals and religious practices as well as those dealing with issues of modernity will be examined.

In Indonesia, *fatwā*-making agencies are integral to Islamic groups or movements. For example, Muhammadiyah and Nahdlatul Ulama'(NU) are equipped with *fatwā*-making bodies called *Majelis Tarjih* and *Lajnah Baḥth al-Masāil* respectively. Other organizations such as *Persatuan Islam* (Persis) also founded the *Dewan Hisbah* which is responsible for the production of legal opinion (*fatwā*) within the organization.¹ In some organizations

1 For study on Persatuan Islam and the Dewan Hisbah, please refer to Howard M. Federspiel, *Persatuan Islam: Islamic Reform in the Twentieth Century Indonesia* (Singapore: Equinox Publishing, 2009); Syamsul Falah, *Pandangan Keagamaan Persatuan Islam: Studi atas Fatwa-Fatwa*

such as *Hizbut Tahrir Indonesia* (HTI) where no specific *fatwā*-making institution exists, the organization nonetheless frequently functions as the *fatwā*-maker for its members.

The three organizations discussed in this book are highly influential in society. Of these, the most prominent are *Majelis Ulama' Indonesia* (MUI) which is active in producing legal opinion (*fatwā*) relating to various issues for contemporary Muslim society in Indonesia as a whole. MUI is a state-affiliated religious body that represents both the state and the majority of Muslim groups in Indonesia. As MUI is an organization representing almost all Muslim groups in the country, Muhammadiyah and Nahdlatul Ulama' constitute part of this umbrella organization. MUI provides a forum for discussion for Muslim scholars and leaders and is seen as the most competent council in giving guidance and rules on religious problems and questions (*iftā'*).² In general, MUI proclaims itself as a successor of the Prophet (*war-athatu al-anbiyā'*) which functions to fulfill his legacy. Hence, it assumes the roles as *fatwā*-giver (*mufti*), guide and servant for the community (*ri'āya wa khādīm al-umma*), a movement for reform and improvement (*al-iṣlāḥ wa tajdīd*) devoted to inviting people to do good and forbidding evil (*amr bi al-mar'ūf wa nahy 'an al-munkar*).³ In its specific function as a *fatwā* agency, MUI established a special agency responsible for dealing with Islamic legal opinion (*fatwā*) called the *Fatwā Commission* (*Komisi Fatwa*).

Historically, MUI is founded in May 1975 as the representative body for Muslims nationwide. As the ruler strongly supported the creation of MUI at that time, many believe that MUI is a politically created religious institution aimed by the regime at gaining legitimacy from the religious scholars (*ulamā'*) in justifying strategic and potentially controversial policies it introduced.⁴ The ruler's (Suharto) support for its founding was formulated regarding concern for the unity of Indonesian Muslims in meeting and resolving challenges they face with the backing and participation of the clerics (*ulamā'*).⁵ Through this political will, MUI was finally established

Dewan Hisbah Tahun 1983-1997: Laporan Penelitian (Bandung: Pusat Penelitian: IAIN Sunan Gunung Djati, 1998); and Uyun Kamiluddin, *Menyorot Ijtihad Persis: Fungsi dan Peranannya dalam Pembinaan Hukum Islam di Indonesia* (Bandung: Tafakur, 2006).

2 Majelis Ulama Indonesia, *Himpunan Fatwa MUI Sejak 1975* (Jakarta: Penerbit Erlangga, 2011), 13.

3 See MUI's website, www.mui.or.id.

4 The current chairman of NU, Said Agil Siradj, is among those who believe in this conviction. See Iip D Yahya, *Ajengan Cipasung: Biografi K.H. Moh. Ilyas Ruhiat* (Yogyakarta: LKIS Pelangi Aksara, 2006), 197.

5 Atho' Mudzhar, *Fatwas of the Council of Indonesian Ulama: a study of Islamic legal thought in Indonesia, 1975-1988*, Ph.D. Thesis, University of California, Los Angeles, 1990, 92.

with branches spreading across all Indonesian provinces and regencies which have expanded to more than thirty. As a country with a majority Muslim population, matters relating to Islam occupy a central place in politics. Although the administration of religious affairs in Indonesia has been formally assigned to the Ministry of Religious Affairs (*Kementerian Agama*), at the practical level, this ministry does not deal with specific issues confronting Muslims. Since such a role is assumed by MUI, it can be maintained that MUI represents the state and its legal opinion (*fatwā*) stands as the formal legal position of the state on issues relating to Islam.

The other organization which this book focuses on is Muhammadiyah. This group has been widely associated with a puritan-reformist strand of Islam, and for such a reason it is also often associated with Wahhabism and Salafism. However, this description might fail to describe the whole range of Muhammadiyah movement. To some extent, especially regarding faith, the association of Muhammadiyah with Wahhabism is not misleading. Similarly, the terms Salafism might also be applied to Muhammadiyah, when it refers to a group which adheres to the principle of returning to two primary source of Islamic law, the *Qur'ān* and *Sunna* or Prophetic tradition.⁶ It has also been rendered as the representative of the reformist Islamic movement in Indonesia. Some scholars studied this movement have also pointed to its current conservative inclinations. Founded in 1912, Muhammadiyah was set up as an Islamic movement aimed at purifying Islam as practiced by Javanese society at the beginning of 20th century, featured by the syncretic amalgamation of Javanese traditions with Islamic teachings.

Although currently labeled as puritan, studies reveal that in its initial phase, Muhammadiyah was often described as accommodative towards local tradition. Its rigidity in dealing with local cultures and traditions only occurred about a decade after its foundation. This paradigmatic shift is believed to have been conditioned by the establishment of the *Majelis Tarjih*. Consequently, in addition to being a think-tank of this organization, *Majelis Tarjih* is also frequently identified as the agent of puritanism within this group. This ambiguous nature of *Majelis Tarjih* is relevant to understanding its mode(s) of thought and how it is reflected in legal opinion (*fatwā*) issued. *Majelis Tarjih* is founded in 1927 with the core function of issuing legal opinion (*fatwa*) or legal determination for certain problems. Nevertheless, it should also be emphasized here that *Majelis Tarjih* does not deal only with religious issues in a narrow sense. Rather, it also claims to deal with

6 More detail and comprehensive discussion on the multiplicity of Muhammadiyah's orientations will be presented in Chapter 6 of this book.

all contemporary problems by referring to the principles of the *Qur'ān* and *Sunna*,⁷ and urges for legal reasoning (*ijtihad*) in resolving contemporary issues confronting Muslim societies.

The other movement, Nahdlatul Ulama', has been long known as the representative of traditionalist Muslim groups in Indonesia. It is for this reason that it is selected in this book. Interestingly, its characterization as a traditionalist is currently questioned given competing mode of thought that have merged within the movement. The extent to which this development within NU impacts upon legal opinion (*fatwā*) will be scrutinized. Within NU, the *Baḥth al-Masāil* has played a very significant role in constructing a religious strand of NU since its foundation in 1926. The literature on the history of this body indicates that in its initial phase, *Baḥth al-Masāil* was primarily a kind of discussion that took place in Islamic boarding school (*pesantren*) as part of a mechanism in solving problems within society. As a kind of activity, its inception is concurrent with the founding of NU.⁸ Subsequently, it was formalized as an independent body within NU called *Lembaga Baḥth al-Masāil* or *Lajnah Baḥth al-Masāil*.⁹

Historically, NU is founded partly in response to the ascendancy of the new political power in Saudi Arabia which marked a shift from the Shafi'ite-oriented to a Wahhabi-inclined political leadership. This change of power was seen as a potential threat to traditionalistic Islam and its practices as Wahhabism served as the ideological basis for the new regime which harbored hostility to traditions maintained by traditionalist groups. At about the same time, the call for religious reforms in Indonesia had begun to take place spearheaded by several groups. It has inevitably created anxiety among traditional Muslim leaders which culminated in the foundation of NU. NU's formal institutionalization rendered it both as community (*jamī'a*) adhering to the traditional practice of Islam as well as organization (*jam'iyya*), meaning those who formally joined NU as its members. For both, NU developed a specific understanding of religion conditioned by as well as reflecting its predominant mode of thought.

Apart from their significance in the life of Indonesian society, these three *fatwā*-making agencies also reflect the interplay of competing mode of thought in the formation of their legal thought as reflected in the

7 See the official website of Majelis Tarjih, <http://tarjih.muhammadiyah.or.id/content-3-sdet-sejarah.html> accessed on 3 April 2012.

8 See Martin van Bruinessen, *Kitab Kuning, Pesantren dan Tarekat: Tradisi-tradisi Islam di Indonesia* (Bandung: Mizan, 1996), 34.

9 Ahmad Zahro, *Tradisi Intelektual NU: Lajnah Bahtsul Masa'il 1926-1999* (Yogyakarta: LKIS), 69.