

## TRACING MAQĀṢID AL-SHARĪ'AH IN THE FATWAS OF INDONESIAN COUNCIL OF ULAMA (MUI)

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**Abstract:** Majelis Ulama Indonesia (MUI) or the Indonesian Council of Ulama has been issuing fatwas since its formation by the state in 1975. In the process of fatwa issuing within MUI, there are fundamental principles to be taken into account to make sure the protection Islamic teaching in all of its aspects, namely theology, law and social issues. The account to sacred texts is the outmost. In addition, the employment of maqāṣid al-sharī'ah is introduced to ensure the applicability and utility of fatwa, especially in the area of human interaction and social religious life. The employment of maqāṣid al-sharī'ah by MUI is apparent in its many fatwas, such as on medical and marriage issues. However, MUI only uses the archaic version of maqāṣid al-sharī'ah which is exclusive to the interest of Muslims. Progressive interpretation of maqāṣid al-sharī'ah which is designed for dealing with modern issues is not employed. Consequently, some MUI fatwas are deemed controversial in the context of plural and modern Indonesia,

**Keywords:** MUI, fatwa, maqāṣid al-sharī'ah, fiqh.

### Introduction

Majelis Ulama Indonesia (MUI) or Indonesian Council of Ulama plays an important role in realizing the need of religious direction for Muslim community in Indonesia. It provides interpretation of religion through fatwa. Fatwa is considered as an alternative to solve contemporary issues from religious perspective. In facing serious and

pressing issue, fatwa is arguably the only solution of the society, even though fatwa has no place whatsoever in the formal legal establishment in Indonesia. Fatwa is merely non-binding legal opinion. Although fatwa is not a formal legal source, fatwa is instrumental in the establishment of sharia finance institutions, such as banking transactions, insurance, zakah of income, and related fatwas.

Admittedly, the acceptance of the public upon the fatwa of MUI is not uniform. There are controversies surrounding some of its contemporary fatwas, namely fatwa on unlawfulness of absence from general election (*golput*), unlawfulness of pornography, unlawfulness of bank interest, unlawfulness of cigarettes, and unlawfulness of Facebook.<sup>1</sup> In addition, its fatwa on the heretic status of Ahmadiyya and the unorthodoxy of religious pluralism, liberalism, and secularism further affirms exclusive position of MUI. The role of MUI in blasphemy case involving Basuki Tjahaja Purnama (Ahok)<sup>2</sup> and its fatwa to ban Muslims from wearing Christmas-related attributes and paraphernalia<sup>3</sup> are the indication of this exclusive stance. These fatwas are said to have undermined basic principles of democracy, such as equality, freedom and pluralism and have triggered opposition from certain Indonesian Muslim intellectuals.<sup>4</sup> For instance, Hasyim regretted the exclusive stance of MUI vis-à-vis pluralism in Indonesia, a country established upon ethnical, cultural and religious diversity.<sup>5</sup> Likewise, Sirry, argues that MUI should support cultural and religious plurality of Indonesia by providing platform for peaceful and

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<sup>1</sup> M. Erfan Riadi, "Kedudukan Fatwa Ditinjau dari Hukum Islam dan Hukum Positif; Analisis Yuridis Normatif," *Ulumuddin*, 6: 4 (January - June 2010), p. 474

<sup>2</sup> Ulla Fionna, "Manipulating 'Diversity': Campaign against Ahok Threatens Democracy," *Perspective: ISEAS Yusof Isbak Institute*, 6 (2017), p. 2.

<sup>3</sup> The Jakarta Post, *Indonesia Ulama Council defends fatwa on Christmas attributes ban*, December 20, 2016, <http://www.thejakartapost.com/news/2016/12/20/indonesia-ulema-council-defends-fatwa-on-christmas-attributes-ban.html>, accessed on March 21, 2017

<sup>4</sup> Bustanul Arifin, "Fatwa Dan Demokrasi: Studi Terhadap Fatwa Majelis Ulama Indonesia (MUI)," *Al-Tahdzib* (2014), pp. 13-14

<sup>5</sup> Syafiq Hasyim, "Majelis Ulama Indonesia and Pluralism in Indonesia," *Philosophy and Social Criticism*, 41 (2015), pp. 4-5.

harmonious interaction among citizens regardless their religious inclinations.<sup>6</sup>

Because of some of its decisions and fatwas, some people argue that MUI create further division of Muslim society as well as Indonesian society in general. MUI is accused of enticing conflict, advocating dehumanization, violating human rights, promoting intolerance, and discrimination.<sup>7</sup> Thus, they urge for the dissolution of MUI. However, many still demand the existence of MUI because of its positive role in providing guidance, protection and direction in religious issues in this ever changing world. Its role as fatwa institution is still required since there are so many emerging issues that challenge one's religiosity. In addition, there is a growing number of MUI fatwas that has adopted approach of *maqāṣid al-sharī'ah* (the purposes of sharia) which conventionally emphasizes on the main goals and context at the expense of textual commitment in formulating legal rulings. For instance, series of its fatwas on Sharia banking, which largely are based on *maṣlahah* certainly have provided platform for the operational and growth of sharia banking in Indonesia. There are also fatwas on medical practices and marriage issues, which are founded upon argument related to *maqāṣid al-sharī'ah*. This article is devoted to show that despite its stern position on religious tolerance and liberal thought, MUI is proven to have produced plenty of fatwas that are crucial for Muslims living in contemporary world.

Currently, Indonesian Muslims are facing tremendous global change. The advancement of science and technology has posed multiple challenges, such as shaken ethical and moral boundary, West-dominated culture, materialism and hedonism, all of which undermine religious tradition and adherence to religion. Furthermore, the emergence of many religious thoughts, Islam-based social organizations and divergent political aspiration is often seen weakness and result in internal controversy within Muslim community in

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<sup>6</sup> Mun'im Sirry, "Fatwas and their controversy: The case of the Council of Indonesian Ulama (MUI)," *Journal of Southeast Asian Studies*, 44, 1 (2013).

<sup>7</sup> R. Michael Feener, *Muslim Legal Thought in Modern Indonesia* (Cambridge: Cambridge University Press, 2007), p. 171.

Indonesia. On that situation, MUI exists to provide advise and fatwa for government as well as Muslim community with the main intention of realizing *Ukhuwwah al-Islamiyyah* (Islamic brotherhood) as well as harmony among different religious adherents in Indonesia.<sup>8</sup> MUI understands that this is important to maintain unity of the nation, to improve internal cohesion among Muslims to provide guidance and direction for Muslim community at large.

### **The Tradition of *Ifta'***

The word fatwa originates from Arabic word of *fata* means to explain. The word fatwa (its plural form is *fatāwa* or *fatāwi*) is a term used for the explanation of a jurist concerning legal issue. A jurist who issues a fatwa is called *mufti*. A definition states that a mufti is a jurist who issues fatwa and it is obligatory to answer the issue with sharia.<sup>9</sup> Another term related to fatwa is *futya* which means the explanation of difficult legal issues. Both term fatwa and *futya* is derived from word *fata* which also means teenager, indicating that a jurist who answer the problem as if a young person who has the capability to tackle difficult task. In addition, fatwa also refers to another word of *al-tafati* which means dispute.<sup>10</sup> The technical definition of fatwa is answer to difficult legal issue<sup>11</sup> or the result of *ijtihad* conducted by individual mufti or a religious institution related to legal event posed to them.<sup>12</sup>

The task to issue a fatwa is called *ifta'*, which closely related to *ijtihad*, the Islamic legal reasoning. The difference is that the former is

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<sup>8</sup> See for example, "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): pp. 202-240

<sup>9</sup> Zafrullah Salim, "Kedudukan Fatwa dalam Negara Hukum Republik Indonesia," in Nahar Nahrawi et al. (eds), *Fatwa Majelis Ulama Indonesia (MUI) dalam Perspektif Hukum dan Perundang-Undangan* (Jakarta: Puslitbang Lektur dan Khazanah Keagamaan, Badan Litbang dan Diklat Kementerian Agama RI, 2012), p. 20.

<sup>10</sup> Ibnu Manzhur, *Lisaan Al-'Arab*, Vol. 1 (Cairo: Darul Ma'arif, n.d), p. 22; see also Salim, "Kedudukan Fatwa", p. 20

<sup>11</sup> al-Jurjany, *Al-Ta'rifat*, (Cairo: Dar al-Fadhilah, n.d), p. 9

<sup>12</sup> Warkum Sumitro, *Hukum Islam di Tengah Dinamika Sosial Politik di Indonesia*, (Malang: Setara Press, 2016), p. 3

more specific in an event of legal inquiry by laymen, whereas the latter is more general, to include answers to actual event or hypothetical legal question.<sup>13</sup> Fatwa is understood as a legal opinion of a mujtahid, Muslim jurist who exercise ijihad as a response to a query by a *mustafti*, a lay person who asks for legal answer. This fatwa does not have binding force unless to the mufti and the *mustafti*. A *mustafti* could be individuals, institution, of a group of society.<sup>14</sup>

In classical period, fatwa was issued by individual mufti upon an inquiry. Nowadays, a fatwa is also issued by a group of jurist as a collective effort. The nature of question as posed by community indicates interplay between Islamic norm and the need of community. As a result, fatwa is always dynamic in expression, although not always express legal dynamic. Thus, it can be concluded that fatwa is a legal opinion of Muslim jurist(s) on actual legal religious cases faced by community in their time and place.<sup>15</sup>

The development and the advance of science and technology and social structure, culture, politics and economy nowadays have affected all aspect of human life. This has improve the level of intellectuality and prosperity. It brings about convenience and material satisfaction too. It also, however, creates variety of new social, cultural, and ethical problems for human being. Meanwhile, the awareness of Muslim community in Indonesia increases along with its dynamics. Variety of religious problems faced by them need urgent solution. Religious responses then is an inevitability, be they literally provided in the sacred texts or should be derived from them. The answers could also be scattered in classical Islamic jurisprudence in different degree of resemblance and correspondence. Even so, not all contemporary Muslim jurists have the capacity to read and understand them directly. Indeed, there are also issues that those texts are silent. This kind of issues is even more troublesome. In dealing with this situation, contemporary jurists must understand and analyze

<sup>13</sup> Wahbah az-Zuhaily, *Ushul al-fiqh al-Islami*, Vol. II (Beirut/Damaskus: Daar al-Fikri al-Mu'ashir, 1986), p. 1156. See also Rifyal Ka'bah, *Hukum Islam di Indonesia*, (Jakarta: Universitas Yarsi, 1999), p. 212.

<sup>14</sup> Riadi, "Kedudukan Fatwa, p. 470

<sup>15</sup> M. Atho Mudzhar, "Prolog. Fatwa MUI sebagai Obyek Kajian Hukum Islam dan Sumber Sejarah Sosial," in Nahrawi, "*Fatwa Majelis Ulama Indonesia*, p. xxv

those sacred texts and opinions of classical jurists using creative approach. They must reconstruct the prescription of the sources with the current context using mechanism that is more suitable with contemporary situation without compromising the teaching of Islam.

Fatwa has very important position in Islamic law, although it is only binding for the petitioners and the jurists (*I'tānīyah*). Others may refer to different mufti(s) when they feel like to do that (*ikhti'yārīyah*). In many respects, fatwa is a religious doctrine, even though it is less authoritative compared to Acts, Laws or Judge Rulings. Even so, a fatwa contain divine aspiration which makes a fatwa very significant. At the same time a fatwa, should correspond with the values and the norms in the society. Otherwise, fatwas will be ignored and lose its authority.<sup>16</sup>

There are several conditions or requirements a person should fulfill to be recognized as mufti who has authority to issue fatwa. The conditions are both the moral and intellectual. Among them is capability, capacity and comprehension on every aspect of Islamic law along with the supporting arguments. In addition, he or she also has to have a good standard of morality which has to be acknowledged collectively by the society. And, this is usually marked by the high number of people come to him or her for fatwa regarding many aspects of life. So, basically a person should have both moral integrity and intellectual capacity in order to be able to issue fatwa.

In addition to *ijtihad* in its conventional meaning, a mufti should also be informed with the purposes of shari'a (*maqāṣid al-sharī'ah*). This requirement firstly proposed by medieval legal theorists such as Abd al Malik al Juwayni (1028-1085 AD) , Abu Hamid al-Ghazali (1058-1111 AD), and Izz al-Din ibn Abd al-Salam (1181-1262 AD), all of whom are Shafiite scholars. Subsequent jurists such as Abu Ishaq al Shatibi (1320-1388 A.D) of Malikite School and Najm al-Din al-Tufi (1277-1316 AD) of Hanbalite School further liberalized its usage. In early modern period, *maqāṣid al-sharī'ah* was reintroduced by several scholars, such as Muhammaad Tahir ibn Ashur (1879-1973 AD) and Allal al-Fasi (1910-1974 AD). This concept has gained

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<sup>16</sup> Kusumadi Pudjosewojo, *Pedoman Pelajaran Tata Hukum Indonesia* (Jakarta: Sinar Grafika, 2001), p. 4.

prominence among contemporary Muslim jurists such as Abd Allah ibn Bayyah, Ahmad al-Raysuni, and Jasser Auda. The main assumption of *maqāṣid al-sharī'ah* is that Islamic law has the purpose of realizing prosperity for human being in this world and hereafter. Safeguarding the prosperity of human being is paramount above everything else. *Maqāṣid al-sharī'ah* resurfaced in modern Islamic legal thought since its relevance to the effort of Islamic legislation renewal. Therefore, virtually all rethinking of Islamic law in modern context always refers to realization of that prosperity (*maṣlahah*).<sup>17</sup>

When a Muslim jurist (*mujtahid* or *mufti*) formulate an aspect of Islamic law, he or she will need to understand *maqāṣid al-sharī'ah* in the issue. The interplay between *maqāṣid al-sharī'ah* and *ijtihād* is very close because *maqāṣid al-sharī'ah* is a legal theory and *ijtihād* is a legal method. While *maqāṣid al-sharī'ah* deals with legal issues in theoretical level, *ijtihād* presents procedure and technique of legal interpretation. Therefore, *maqāṣid al-sharī'ah* and *ijtihād* is inseparable. The effort to formulate Islamic law is deemed fruitful when a Muslim jurist understand well *maqāṣid al-sharī'ah*.<sup>18</sup> Legal interpretation that employs *maqāṣid al-sharī'ah* will result in applicable law. In fatwa issuing process, the consideration of *maqāṣid al-sharī'ah* is to determine that not only sacred texts are employed in the process of legal interpretation but also the purposes, thus, when a fatwa is issued, its applicability and benefit is the outmost consideration.

### Fatwa and Maqāṣid al-sharī'ah

Islamic Sharī'ah is the rule or way of life that is originated from Allah and becomes a prime life guidelines for all mankind. The main objective of the revelation of Islamic law is for the good of all mankind called *maqāṣid al-sharī'ah*. *Maqāṣid al-sharī'ah* consists of two words, *maqāṣid* and *al-sharī'ah*. *Maqāṣid* means intent or purpose. *Maqāṣid* is the plural form of *Maqṣud* derived from the word *Qaṣada*

<sup>17</sup> Amir Muallim and Yusdani, *Konfigurasi Pemikiran Hukum Islam* (Yogyakarta: UII Press, 1999), pp. 4-5.

<sup>18</sup> Asafri Jaya Bakri, *Konsep maqasid Shari'ah menurut al-Syatibi* (Jakarta: P.T. Raja Grafindo Persada, 1996), p. 129.

with the meaning of wanting or intending. *Maqāṣid* means desired and intended things<sup>19</sup> *al-shari'ah* literally means “*Al Mawāḍbi Taḥḍuru ila al Ma'*” (*the road to the water source*). The road to the water source can also be interpreted to walk towards the source of life.<sup>20</sup> Terminologically, *al-shari'ah* is defined as “the rules created by God to serve as guidelines to regulate the relationship of man with God, with fellow humans either Muslims or non-Muslims, nature and whole life”.<sup>21</sup> As reported by Anwar, Manna' al-Qattan defines *al-shari'ah* as “God provisions for his adherents related to faith, worship, morality and human interaction.”<sup>22</sup> Thus, *maqāṣid al-shari'ah* means purpose, intention or something to be realized by *al-shari'ah* through its provisions of the law.<sup>23</sup>

From that definition of *maqāṣid al-shari'ah*, it can be understood that the term means goals as well as essence in every law is that it has to meet. According to al-Shatibi, the purpose is to reap the people benefit in the world and hereafter. Izz al-Din ibn Abdul Salam stated that, “*Sharia* is all about benefit, refusal of wickedness or kindness acceptance.”<sup>24</sup> In Islamic legal theory (*uṣūl al-fiqh*), this benefit is termed as *maṣlahah*. In relation to this, MA. Sahal Mahfudh states that the public interest (*maṣlahatul ummah*) must be the foremost consideration in the decision-making process (legal) in order to maintain legal interest. A *mujtahid*, according to him, must have social sensitivity.<sup>25</sup>

In modern discourse, the definition of *maqāṣid al-shari'ah* is extended to mean universal values. For instance, Yusuf Al-Qardhawi

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<sup>19</sup> Mandzur, *Lisaan Al-'Arab*, p. 3642

<sup>20</sup> Ahmad Warson Munawwir, *al-Munawwir Kamus Arab-Indonesia* (Surabaya: Penerbit Pustaka Progressif, 1997), p. 712.

<sup>21</sup> Mahmud Shaltut, *Islam: 'Aqidah wa Sbari'ah* (Cairo: Dar al-Qalam, 1966), p. 12.

<sup>22</sup> Mardani, *Hukum Islam* (Yogyakarta: Pustaka Pelajar, 2010), p. 10.

<sup>23</sup> Syamsul Anwar, *Maqasid al Syari'ah dan Metodologi Ushul Fiqih dalam Fikih Kebhinekaan* (Bandung: Mizan, 2015), p. 72.

<sup>24</sup> Izz al-Din Ibn Abd al-Salam, *Qawa'id al-Abkam fi Mashalih al-Anam* (Bairut: Dar al-Jail, n.d), p. 9.

<sup>25</sup> Sumanto Al Qurtubi, KH. MA. Sabal Mahfudh; *Era Baru Fiqh Indonesia* (Yogyakarta: Cermin, 1999), p. 119.



explained that the true Islamic sharia is derived to protect and preserve human interests such as material, spiritual, individual or social interests. Islamic sharia maintains those interests based on justice and balance without passing the limit or imposing disadvantages.<sup>26</sup> Likewise, Jasser Auda further asserts that Sharia upholds justice, mercy, wisdom and interests. Every problem that comes away from justice towards injustice or persecution, or from mercy to his opponents to lack of mercy, from benefit to harm, from wisdom to useless act, cannot be claimed as the shari'ah.<sup>27</sup> Also, as quoted by Syamsul Anwar, Jamal al-Din Athiyah mentions various opinions regarding the addition and development of the concepts which includes freedom, justice, equality and fraternity, in addition to the social, economic and political rights.<sup>28</sup>

In its classic theoretical discourse, *maqāṣid al-sharī'ah* is perceived to have three levels as follows: essential benefit (*al Dharuriyyat*), primary benefit (*al Hajjiyyat*) and complementary benefit (*at Tabsiniyyat*). Essential benefit (*al Dharuriyyat*) is the primary needs of mankind required in order to survive in life either temporally or eternally to the extent that the failure to fulfill the need would endanger the life in both realms. Primary benefit or needs (*al Hajjiyyat*) is the needs required to make life goes properly and normally. If the needs are not fulfilled, then the order of human life will face hardship. Complementary benefit or needs (*at Tabsiniyyat*) is the needs that, when fulfilled, can improve the quality of human life. The essential benefit (*dharuriyyat*) can be realized if the five basic elements (*uṣūl al-khamsah*) can be realized and maintained. The five elements according to al-Shatibi are *dīn* (religion), *nafs* (soul), *nasl* (lineage), *mal* (property), and *'aql* (intelligence).<sup>29</sup>

<sup>26</sup> Yusuf Qardhawi, *Al Ijtihad fi al Shari'at al Islamiyyah*, Translated by Ahmad Syatori, *Ijtihad dalam Syariat Islam* (Jakarta: Bulan Bintang, 1987), p. 53.

<sup>27</sup> Jasser Auda, *Maqasid al Syari'ah Ka Falsafah Li al Tasbiri' al Islami* (Bairut: Al Tauzi'fi al Alami al Arabi, 2012), p. 57. See Fathi Utsman, *Al Fikr al Qanuni al Islami* (Cairo: Muhayyar, n.d), p. 26.

<sup>28</sup> Syamsul Anwar, *Maqasid al Syari'ah dan Metodologi Ushul Fiqih*, p. 77.

<sup>29</sup> Abu Ishaq al-Shatibi, *Al-Muwafaqat fi Usul al-Syari'ah*, vol. II (Bayrut: Dar Kutub al-Ilmiyyah, 2003), p. 10.

Meanwhile, perceived from the width of the scope or coverage, *maqāṣid al-sharī‘ah* is divided into three parts. They are (1) *maqāṣid al-sharī‘ah ‘āmmah* (general), (2) *maqāṣid al-sharī‘ah khaṣṣāṣah* (specific) and (3) *maqāṣid al-sharī‘ah juz‘iyah* (particular).<sup>30</sup> The general *maqāṣid* can be seen from all parts of Islamic law that addresses the humanity and justice in general. The specific *maqāṣid* can be seen from all chapters of certain Islamic laws while particular *maqāṣid* is derived from a *naṣ* (sacred text) or specific laws. If the three of them are taken into account, starting from the most common, to specific to particular, it then would produce a new treasure of *maqāṣid* that have the benefit to all mankind; not only Muslims but even the non-Muslims. According to Amin Abdullah, This model of *maqāṣid* will reach out to the whole society, the nation and even the human race. The model of *maqāṣid* focusing on public should be prioritized when there is dilemma and when is disputed with the individual and particular *maqāṣid* pattern.<sup>31</sup>

In its contemporary discourse, Muslim contemporary jurists expand *maqāṣid* to different realm. *Maqāṣid* that used to only emphasize protection (*hifdẓ*) now has shifted toward the development pattern (*tanmiyah*). *Maqāṣid* that used to stress on the protection of Muslims also shifted into the protection of universal humanity. Protection that used to only focus on the descent (*hifdẓ al nasl*) shifts to the protection of the integrity and welfare of family life. Protection that had only intended to protect the dignity of Muslims (*hifdẓ al irdh*) shifted and expanded to the protection of universal human dignity. Protection of property (*hifdẓ al mal*) is expanded the scope into the earnest efforts of the State and its citizens to reduce the gap between the rich and the poor. Meanwhile, the protection of religion (*hifdẓ al din*) that used to only focus on the protection of Muslims now becomes the protection of right related to religion and belief rights based on the United Nations covenants. Protection and preservation of intelligence (*hifdẓ al ‘aql*) which had only concentrated on efforts to prevent the alcoholic drinks as it is believed to be harmful now is

<sup>30</sup> Auda, *Maqasid al Shari'ah*, p. 35.

<sup>31</sup> Amin Abdullah, "Memaknai Al-Ruju' Ila al-Qur'an Wa al-Sunnah," Wawan Gunawan Abdul Wahid, Muhammad Abdullah Daraz, and Ahmad Fuad Fanani (eds), *Fikih Kebinekaan* (Bandung: Mizan and Maarif Institut, 2015), p. 72

expanded to encourage Muslims to exploit their intelligence for studying or scientific exercise.<sup>32</sup> The positive affect from the use of the contemporary methods is that the *maqāṣid* realization can be measured empirically through scientific methods using reference to the standardized targets of human resource development of the UN or other reputable international institutions.<sup>33</sup>

Since because Islamic law is virtually only way for Muslim to understand reality, it is very crucial to employ *maqāṣid al-sharī'ah* as a method of legal reasoning (*ijtihād*) in dealing with contemporary legal issues. In Islamic legal theory, contemporary Muslim scholars generally use two approaches to understand Islamic law, linguistic approach and *maqāṣid al-sharī'ah* approach. according to al-Shatibi, there are three approaches to understand *maqāṣid al-sharī'ah*: (1) considering the literal meaning of the sacred texts, (2) considering their inner meaning and reasoning, and (3) combining literal meaning, *inner* meaning and reasoning.<sup>34</sup> In applying these three approaches a jurist should take four things into account: (1) considering the command (*al-amr*) and prohibition (*al-nahy*), (2) considering ratio legis (*'illah*) behind command and prohibitions, (3) considering the original purposes (*maqāṣid al-ashl*) and additional purposes (*maqāṣid al-tab'i*); and (4) the absence of information to sharia.<sup>35</sup>

By using three approaches to understand *maqāṣid al-sharī'ah*, it then becomes clear that the basis of *maqāṣid al-sharī'ah* is the principal sources of Islam, *Al-Quran* and *al-Hadith*. Thus, *maqāṣid al-sharī'ah* contains the *divine* dimension (divinity) because *maqāṣid al-sharī'ah* is indeed determined by exploring *the verses* of Al-Quran and *the hadiths* of the Prophet Muhammad. On the other hand, *maqāṣid al-sharī'ah* also has the human dimension (humanity) as the human's reason and

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<sup>32</sup> Ibid., pp. 68-69.

<sup>33</sup> Ahmad Imam Mujadid Rais, *Hasil Penelitian Indeks Kota Islami* (Jakarta: Maarif Institute, 2016), pp. 1-2

<sup>34</sup> Abu Ishaq al-Shatibi, *Al-Munafaqat fi Usul al-Shari'ah*, vol I (Bayrut: Dar Kutub al-'Ilmiyyah, 2003), pp. 392-393.

<sup>35</sup> Ibid., pp. 393-403..

thought is used to understand the revealed text<sup>36</sup>. So, the use of *maqāṣid al-sharī'ah* approach is to uncover and explain the law of a case using the consideration on the benefit.

*Maqāṣid al-sharī'ah* is applied both to cases with the existing texts (*naṣ*) in the Qur'an and Hadith and cases without *naṣ*. Ijtihad about the obvious legal materials found in the *Qur'an* or *hadith* is not allowed. Yet, ijtihad about its *taṭbiq* is necessary because *taṭbiq* is related to human interests as complex legal subjects. Therefore, Umar ibn Khattab once postponed the distribution of zakat to *muallaf* as *mustabiq zakat*. Similarly, Umar also decided that three *talaqs* (unilateral divorce) uttered by a husband at once become irrevocable.<sup>37</sup> Meanwhile, theories used to expose and explain the law in various cases that have no specific *naṣ* are *istiṣlah* and *maṣlahah mursalah*, *istiḥsan*, *shadd dharī'ah*, *'urf*, *istiṣhab*, *qaul Shāḥabī* method and so forth.

Approach of *maqāṣid al-sharī'ah* can bring to leaving textual meaning of a *verse* and *hadith* and consequently ignore the linguistic approach. The main consideration is the benefit and general principles, such as justice and convenience (*taysir*). *Maqāṣid* implementation are common in the matters of human interaction (*mu'amalah*).<sup>38</sup> The application of this theory does not mean ignoring normative law of sharia or texts/*naṣ* as the references in the process of law establishment. Rather, it is more as an effort to interpret the normative legal basis and contextualize it in to the practical level or legal implementation using the social reality as consideration. It is aimed at the realization of the benefit for human benefit as it is believed to be the principal basis of Islamic law which is permanent, universal and substantive.

If the sharia were observed, it will be clear that all the good teachings of Islam in forms of commands and prohibitions are efforts in creating and bringing the benefit. Therefore, in the legal establishment, even though the level of the application might be seen

<sup>36</sup> La Jamaa, "Dimensi Ilahi dan Dimensi Insani dalam maqasid al-Shari'ah," *Ayy-Syir'ah, Jurnal Ilmu Shari'ah dan Hukum*, 45, 2 (July-December 2011), p 126.

<sup>37</sup> Muallim dan Yusdani, *Konfigurasi Pemikiran Hukum Islam*, pp. 41-42.

<sup>38</sup> Sumitro, *Hukum Islam*, p. 168

as not in line with *naṣ*, they can still be categorized as implementing Islamic teaching as long as the contextual reasoning still refers to the moral foundation and substantive values of Islam and is aimed at reaching beneficial purposes. Al-Qur'an and hadith are not closed to the dynamic understanding and interpretation. On the other hand, *maqāṣid al-sharī'ah* is not only about absorbing current development and or responding to the demands of a new era with regards to new paradigm.<sup>39</sup>

Nowadays, Muslims have to deal with various contemporary issues which need to get clarity on their legal status. In this regard, fatwa plays a major role. The function of this fatwa in contemporary time according to Jasser Auda is to manage sharia and fiqh, the law in the Muslim life nowadays.<sup>40</sup> If the fatwa was constructed on the valid (*ṣahīḥ*) basis of Islamic sources, and always keep in mind to secure human benefit, the fatwa is then accepted.<sup>41</sup> Otherwise, fatwas will not be relevant and therefore not applicable.

### **MUI and the Tradition of *Ifta'***

In Indonesia, MUI is one of several fatwa issuing institutions. Although MUI is established and funded by the state, it is not the state mufti. However, fatwa of MUI is still highly respected by many people in Indonesia and is used as a reference for them in many aspects of their life. So, even though the fatwa does not legally bind, it actually is influential in shaping the attitudes of many Muslims in Indonesia and as a point of reference for the Indonesian Muslim community.<sup>42</sup> In addition, as an umbrella organization of all Muslims in Indonesia, MUI must provide acceptable legal responses in form of fatwas.<sup>43</sup> In its Guidelines and Procedure of fatwa issuance states

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<sup>39</sup> Mun'im A. Sirry, *Dilema Islam Dilema Demokrasi*, Vol. I (Bekasi: PT Gugus Press, 2003), p. 55.

<sup>40</sup> Auda, *Maqasid al Shari'ah*, p. 22

<sup>41</sup> *Ibid.*, p. 23.

<sup>42</sup> M. Atho Mudzhar, *Fatwa-Fatwa Majelis Ulama Indonesia: Sebuah Studi tentang Pemikiran Hukum Islam Indonesia 1975-1988* (Jakarta: INIS, 1983), p. 63.

<sup>43</sup> Musthafa Helmy, "Dibahas Kembali Pedoman Penetapan Fatwa MUI," in *Mimbar Ulama, Suara Majelis Ulama Indonesia, Special Edition Ijtima' Ulama* (2012), pp.

that MUI has the authority to issue fatwa on general aspects of Islam, especially legal aspect and in theological aspect of the religion which relates to the truth and purity of religious doctrine of Indonesian Muslim community.<sup>44</sup>

MUI has significance to the Muslim community in Indonesia.<sup>45</sup> MUI's Council of fatwa affects the whole social order of society in Indonesia because of two things: *first*, the fact shows that although MUI fatwas are not legally binding, they still become the behavioral reference at the practical level by communities and governments in various aspects of nation and state affairs. *Second*, due to the strong effect and influence of fatwa to the society, MUI is expected to be responsive to the dynamic and trend in society, so that the issued fatwa is in line with their benefit.<sup>46</sup> Third, although it is autonomous, MUI is funded by the government.

In ifta process, MUI uses the following mechanisms to issue fatwa: Before issuing fatwa, the council should carefully review in advance the opinions of *madhhab* (Islamic school of law) and authoritative ulama regarding the problems along with the *dalil* (textual reference). The problem that has clear law based on those Islamic law schools should be decided and presented to people as it is. If the problem becomes one of the disputed issue (*kebilāfīyah*) among the schools, the fatwa is based on the final results of discussion among the opinions of madhhab or ulama using combining method (*al-jam'u wa al-tanfiq*); and if the effort to find the final result is not successful, the establishment of the fatwa is based on the results of selection (*tarjil*) through comparison (*muqāranah*). If the problem has no legal opinion among madhhab, the fatwa is based on the results of *ijtihad jama'i* (collective ijtihad). In all aforementioned

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17-18; see Anwar Abbas, et.al, *Pedoman Penyelenggaraan Majelis Ulama Indonesia* (Jakarta: Sekretariat Majelis Ulama Indonesia, 2011), pp. 274-275.

<sup>44</sup> Majelis Ulama Indonesia, *Himpunan Fatwa MUI sejak 1975* (Jakarta: Erlangga, 2011), pp. 7-8.

<sup>45</sup> Siti Musdah Mulia, "Fatwa Majelis Ulama Indonesia," *Jauhar: Jurnal Pemikiran Islam Kontekstual*, 4, 2 (December 2003): pp. 183-205

<sup>46</sup> Huda, "Otoritas Fatwa, pp. 150-151; see also M. Asrorun Niam, "Sadd al-Dzari'ah dan aplikasinya dalam Fatwa Majelis Ulama Indonesia," (Unpublished Ph.D Dissertation, UIN Syarif Hidayatullah Jakarta, 2008), p. 2.

steps, the main consideration of fatwa is universal benefit (*masalih 'ammah*) and *maqāṣid al-sharī'ah*.<sup>47</sup>

According to Nafis, *ijtihad jama'i* (collective ijtihad) of MUI is executed through *bayāni*, *ta'lili* (*qiyas*, *istihsan*, and *ilhaq*), *istislahi*, and *shadd al-dhari'ah* methods). *Bayani* method means limiting to the expansion of verses dalil of *Al-Qur'an* and *the hadith* related to sharia principles in regards to the legal issue without explaining *dilalah* (lead or legal reason) on the meaning of the problem. Whereas *qiyāsi method* of MUI issues fatwa by including all the elements of the *qiyās* methods or analogy as a whole, such as equating the unlawful *riba* with bank interest and money changer. Sometimes *qiyās* is used in the sense of *ilhaq* by equating a problem with no legal provision to other problems that have legal opinion by ulama. One example is suspending the payment for the affluent which is equated with *ghashb* (illegal acquisition). As to *istislahi method*, MUI issues fatwa by using the method of laying down the opinion disputed by ulama in accordance with the circumstances. Sometimes they use *'urf*, *shadd al-dhara'i*, *maṣlahah mursalah* and others. However, MUI fatwas are likely use method of *maṣlahah* (common good) and *ḥajāt al-nas* (human needs). Based on this *maṣlahah* consideration, sometimes MUI issues the fatwa by quoting ulama opinion that is not well-known.<sup>48</sup>

Thus, in the context of providing benefit for Muslims, it is already established that MUI has adopted principles of *maqāṣid al-sharī'ah* and realization of *maṣlahah* (benefit) in its fatwa issuing procedure (*ifta*). As declared in its fatwa issuing method, MUI also employs ijtihad in formulating fatwas. Thus, fatwa of MUI should be perceived as a method for providing answers for problems on which the sacred texts clearly speak as well as those are silent. In exercising this ijtihad there are factors to be considered, namely: social and cultural change, the advancement of science and technology and the difference of time and space. Any legal product should reflect the

<sup>47</sup> Majelis Ulama Indonesia, *Himpunan Fatwa MUI sejak 1975*, pp. 5-6

<sup>48</sup> M. Cholil Nafis, "Otoritas Fatwa terhadap Bank Syaria'h," in Nahrawi, *Fatwa Majelis Ulama Indonesia*, p. 317

aspiration of ever changing community. In addition, it should also point of reference for future social, economic and political changes.<sup>49</sup>

MUI explains the criteria of *maṣlaḥa* as benefit or utility. According to Islamic legal theory, *maṣlaḥa* is the purposes of the sharia (*maqāṣid al-sharī'ah*) which is implemented by maintaining the five primary needs (*al-dharūrīyat al-khams*): religion, mind, soul, lineage and wealth. However, MUI assert that valid benefit is those benefit that correspond to *naṣ* of al-Qur'an and Hadith of the Prophet. Those that have the authority to determine whether something can be categorized as *maṣlaḥah* or not are those who are competent in the field of Sharia in *ijtihad jamā'i* process.<sup>50</sup> This is the rule in their decision making so that all the fatwa's issued are in line with rules for determining law and also correspond *maqāṣid al-sharī'ah*.

Among many of MUI fatwas, controversy does occur. Not all of the fatwa issued by MUI was readily accepted by people. It often causes pros and cons among the society both at central and local levels. In this case, Huda argued that public fatwas are more likely to cause resistance and debates among the community.<sup>51</sup> This is because it is associated with tradition and law for other communities. At the end of the day, Indonesia is a pluralistic country with diverse ethnic and religious backgrounds. Every ethnic group and religion has a different tradition. Therefore, MUI fatwas related to public life often lead to controversy especially in a secular state like Indonesia in which Islam is not official religion and adherents of other religions are existent.

Surprisingly, in such a context MUI does not seem interested to employ contemporary *maqāṣid al-sharī'ah* discourse to mitigate this shortcomings. *Maqāṣid al-sharī'ah* has evolved dramatically in recent decades. Works of Taha Jabir Alwani, Ahmad al-Raysuni and Jasser Auda have provided a platform for Muslims to live in this pluralistic

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<sup>49</sup> Muallim and Yusdani, *Konfigurasi Pemikiran Hukum Islam*, pp. 1-6.

<sup>50</sup> Majelis Ulama Indonesia, *Himpunan Fatwa MUI*, p. 490

<sup>51</sup> Qomarul Huda, *Otoritas Fatwa dalam Konteks Masyarakat Demokratis: Tinjauan atas Fatwa MUI dalam Perspektif Hukum dan Perundang-undangan* (Jakarta: Puslitbang Lektur dan Khazanah Keagamaan, Badan Litbang dan Diklat Kementerian Agama RI, 2012).



and modern world.<sup>52</sup> Instead, MUI focused on the wellbeing of Muslims exclusively. This admittedly is *Maqāṣid al-sharī'ah*, but the one which was theorized centuries ago. The tendency to consider *maqāṣid al-sharī'ah* albeit exclusively for Muslims is apparent in many of MUI fatwas.

### ***Examples of MUI Fatwas***

There are numerous fatwas of MUI that use the approach of *maqāṣid al-sharī'ah* and the concept of benefit as main consideration. The most *maṣlaḥah*-based fatwas are arguably those related to the function of MUI as Dewan Syariah Nasional (DSN, National Sharia Council) that oversees and legitimizes financial contracts of sharia financial institutions and operation in Indonesia.<sup>53</sup> DSN-MUI has played this role since the inception of sharia-based financial institution in the early 1990s and continued until today with its many fatwas. This role intensified after MUI in 2003 officially declared that interest of bank is unlawful. With that fatwa, sharia financial institutions flourished in unprecedented pace. Legitimizing many novel financial contracts for Islamic banking employs a great deal of *maṣlaḥah* consideration because such contracts did not exist in classical discourse of Islamic jurisprudence. The benefit for Muslims in the opening of Islamic banking is obvious. It certainly facilitates Muslims in avoiding interest-based financial practices. Furthermore, it potentially improves the economic opportunity for Muslim entrepreneurs by providing access to religiously lawful capital.<sup>54</sup> The importance of fatwa of this kind is also evidenced by the adoption of the fatwa by financial regulator in the country, namely the central bank and ministry of finance. Thus, the fatwas have evolved from a

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<sup>52</sup> See for instance the work of Taha Jabir Alwani entitled *Maqasid Al-Shari'ah*, 1<sup>ed</sup>. (Beirut: IIT and Dar al-Hadi, 2001). In his book, Jasser Auda speaks a lot about Islamic renewal through *maqasid al-shari'ah*. See, Jaser Auda, *Maqasid al-Shari'ah: an introductory Guide* (Kuala Lumpur: IIT, 2008).

<sup>53</sup> Moch Nur Ichwan, "The majelis Ulama Indonesia and the Politics of Religious Orthodoxy," in Martin van Bruinessen (ed), *Contemporary in Indonesian Islam: Explaining the conservative turn* (Singapore: ISEAS, 2013), p. 74.

<sup>54</sup> Ma'ruf Amin, "Fatwa and the Development of Sharia Financial Industry: A lesson from Indonesia," *Al-Iqtisad: Jurnal Ilmu Ekonomi Syariah*, 9, 2 (July 2017).

non-binding status to some sorts of positive law. Thus, all existing sharia financial institutions must comply them.<sup>55</sup>

Methodology-wise, it is acknowledged that the DSN-MUI fatwas still relies upon opinion of Muslim jurists of classical Sunni schools of law (*madbhāb*) as its primary reference, in addition to the sacred reference of Al-Qur'an and Hadith of the Prophet. However, in cases when there is no opinion from the Muslim jurists nor when those opinions are contradictory to principles of *mu'āmalah* (human interaction, especially financial transaction), then *ijtihād* is employed with underlying assumption of providing guidance and protection for Muslims in financial transaction.<sup>56</sup> In other words, this *ijtihād* greatly consider *maṣlahah* which is the essence of *maqāṣid al-sharī'ah*. In so doing DSN-MUI has introduced hybrid contracts,<sup>57</sup> multiple contracts and other innovations.

Aside from fatwas of DSN-MUI, there are numerous contemporary MUI fatwas that reflect the employment of *maqāṣid al-sharī'ah*. Among the fatwas are those concerning medical issues, such fatwa on artificial Insemination for human being, vaccination, abortion and cloning. MUI issued a fatwa on the lawfulness of artificial Insemination of human being in 1990. The fatwa clearly stated that artificial insemination for a human being is allowed in Islam as long as the sperm and ovum origin from the legal married couple concerned. However, this must be inseminated only in the woman that the ovum belongs to. If the owners of the sperm and ovum are not legally married then artificial insemination is forbidden.<sup>58</sup> This fatwa employs the analysis of *maqāṣid al-sharī'ah* by considering among the purposes of marriage is reproduction. There is also a fatwa on Abortion. MUI issued this fatwa in 2010. The principle of *maqāṣid al-sharī'ah* is also employed in this fatwa on abortion. It stated that abortion is illegal regardless whether the

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<sup>55</sup> Ibid., p. 343

<sup>56</sup> Ibid., p. 340

<sup>57</sup> Burhanuddin Susanto, "Does Indonesian Ulama Council (IUC) has manipulated the Islamic law by Implementing hybrid contract in Islamic insurance (ta'min)," *IOSR Journal of Economics and Finance*, 7, 1 (September 2016), p. 32.

<sup>58</sup> Majelis Ulama Indonesia, *Himpunan Fatwa MUI*, pp. 603-604.

procedure is conducted either before or after God gives soul to the embryo. The only exception in which abortion may be tolerated is when there is a serious medical condition such as safeguarding the life of the mother.<sup>59</sup>

*Third* is a fatwa that allow vaccination. This 2016 fatwa, was based on the principle of *maqāṣid al-sharī'ah*. It stated that vaccination was essentially allowed as an effort to obtain the body's immunity and to prevent certain diseases with the following conditions. Vaccines used must be originated from lawful and clean substances. Therefore, the use of vaccines made from haram (unlawful) ingredients and is not clean are haram (prohibited). However, vaccination which is from haram and unclean substances can be used in an emergency situation where there is no halal and clean is found. Vaccination will become obligatory in such cases where the lack of it will lead to death, fatal disease, permanent disability, or threatening one's life based on the advice from medical expert. On the other hand, one cannot have vaccination if it may lead to harm to the person concerned.<sup>60</sup> Another fatwa on medical issue is about corpse autopsy. Islam highly appreciate human being, even if they are dead. Therefore, the corpse of Muslim still carries this dignity. However, MUI in this fatwa tolerates autopsy procedure when necessary for medical, insurance, or investigation purpose. The consideration is *maqāṣid al-sharī'ah*. It cites two legal maxims of "*Dar'u al-Mafāsīd Muqaddam 'ala jalb al Maṣāliḥ*" (preventing harms is prioritized over attracting benefits) dan *qaidah "Al Dharūrat tubīḥu al maḥḍburāt"* (emergency situation allows prohibition).<sup>61</sup>

Similar to previous fatwa, MUI uses the purpose of Islamic law (*maqāṣid al-sharī'ah*) and the maxim of "*Dar' al Mafāsīd Muqaddam 'ala jalb al Maṣāliḥ*". In its consideration, MUI states that human cloning creates plenty of harms. As the fatwa states, cloning Denies consanguinity (*nasab*) which is instrumental for many aspects of Islamic law, namely marriage and inheritance. Likewise, cloning Undermines marriage institution as the only valid way of human

<sup>59</sup> Ibid., p. 399.

<sup>60</sup> Majelis Ulama Indonesia, *Himpunan Fatwa MUI*, p. 707.

<sup>61</sup> Ibid., pp. 544-545.

reproduction, thus, it is contradictory to family institution. Lastly, cloning weakens love and affections between men and women. All of which are contradictory to the purpose of Islamic law.<sup>62</sup>

Another frequently sought fatwa is about marriage, including fatwa on interreligious marriage and marriage registration. In 1980, MUI prohibited the marriage between a Muslim men with women of People of the Book (*abl al-kitāb*); Jews or Christians. This fatwa later further endorsed several years later. The basis of the fatwa was the concept of *ṣadd al dharīʿah* (blocking the means), which simply means prohibit a lawful act since it potentially leads to a unlawful actions.<sup>63</sup> In this fatwa, MUI prohibited Interreligious marriage, although some forms of it is allowed in Islam, because it leads to apostasy. Some previous cases indicated that children of such marriages observe the religion of their non-Muslim mothers. Admittedly, this fatwa is contradictory to textual prescription of the Holy Qur'an, namely Chapter 4:5 which allow such marriages. MUI argues that the marriage will lead to graver harm than its benefits, considering the social, politic and economic situation in Indonesia. The harm will affect the children, since they will likely to follow their non-Muslim mothers' upbringing.<sup>64</sup> Another fatwa in his rubric is about unregistered marriage. Unregistered marriage, which in Indonesia is called *Nikah Bawah Tangan* or *Nikah Sirri*, is a marriage which meets all religious requirements but not sanctioned by official registration appointed by authority. MUI issued this fatwa in 2008 with the decree that the marriage is valid unless if it leads to harm. Therefore, a marriage should be officially registered to prevent the occurrence of harm.<sup>65</sup>

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<sup>62</sup> Ibid., pp. 651-653.

<sup>63</sup> Auda, *Maqasid al- Shari'ah: an introductory Guide*, p. 45.

<sup>64</sup> Majelis Ulama Indonesia, *Himpunan Fatwa MUI*, p. 620. See also Masfuk Zuhdi, *Masail Fiqhiyah* (Jakarta: H. Masagung, 1990), pp. 6-7, see also Majlis Tarjih dan Pengembangan Pemikiran Islam, PP Muhammadiyah, *Tafsir Tematik Al Qur'an tentang Hubungan Sosial antar Ummat Beragama* (Yogyakarta: Pustaka Suara Muhammadiyah, 2000), pp. 216-217.

<sup>65</sup> Ibid., p 534.

All of aforementioned fatwas, MUI employs *maqāṣid al-sharī'ah* quite boldly which sometimes ignoring literal understanding of main sources of al-Qurān and hadith of the prophet. The employment of this principle scattered throughout years, since MUI establishment in 1975. However, the *maṣlahah* is confined within Muslim community. Greater *maṣlahah* which encompasses boundaries of Islam and expands *maqāṣid al-sharī'ah* from only protection to include development (*tanmiyah*), as proposed by contemporary *maqāṣid al-sharī'ah*'s thinkers, is not adopted. The fatwa on the unlawfulness of interreligious marriages shows this tendency.

### Conclusion

The process of fatwa issuing is not an easy feat. Therefore, MUI always work by the rules they have sketched in deriving fatwas. A mufti, the jurist who is entitled to issue fatwa, should be equipped with knowledge and skills, understand the problem in question and master Islamic legal theory because he or she is essentially a mujtahid. A mujtahid should be able to derive law from its primary texts, namely the Holy Qur'an and Prophet Tradition as well as other authorized arguments. MUI has the role to issue fatwas for Muslim community so that they can get certainty for their religious life in this ever changing era. The fatwas are crucial in guiding them to life in accordance to their religion in all aspects of life, both in legal and theological aspects of Islam.

There are plenty legal issues in the aspect of Muslim life nowadays. This causes confusion and reservation of Muslims. in this situation, MUI plays important role in providing legal certainty. Social interaction is the area which creates many issues. The determination for such cases depends on mutual benefit and the absence of harm inflicted. In short, the measure is the harm and benefit. God has revealed His Shari'a that become blessing for all human being. Thus, Shari'a should always bring benefit. Therefore, when a Muslim jurist issues a fatwa, he or she must not ignore the purpose of the Islamic law, which is benefit in this world and hereafter. As showed by several fatwas, this is what MUI has been doing when issuing its fatwas.

In Islamic legal tradition, consideration of benefit and utility in legal processes falls into the domain of *maqāṣid al-sharī‘ah* or the purposes of Islamic law. However, further examining some fatwas of MUI, it is apparent that MUI only uses the archaic model of *maqāṣid al-sharī‘ah* which is only focused on Muslims and protection aspects of *maqāṣid al-sharī‘ah*. Contemporary *maqāṣid* which are proposed by some Muslim progressive thinkers are not introduced. This in turn creates some hiccups in the context of the modern and religiously plural Indonesia. []

## References

### Books and Articles

- Abbas, Anwar et al. *Pedoman Penyelenggaraan Majelis Ulama Indonesia*. Jakarta: Sekretariat Majelis Ulama Indonesia Pusat, 2011.
- Abd al-Salam, Izz al-Din Ibn, *Qawaid al-Abkam fi Mashalih al-Anam*, (Bairut: Dar al-Jalil, n.d)
- Abdullah, Amin. “Memaknai Al Ruju’ Ila al Qurán Wa al-Sunnah.” Wawan Gunawan Abdul Wahid, Muhammad Abdullah daraz, and Ahmad Fuad Fanani (eds). *Fikih Kebinekaan*. Bandung: Mizan and Maarif Institut, 2015.
- al-Jurjany. *Al-Ta’rifat*. Cairo: Dar al-Fadhilah, n.d.
- Alwani, Taha Jabir. *Maqasid Al-Shari’ah*. Beirut: IIIT and Dar al-Hadi, 2001.
- Amin, Ma’ruf. “Fatwa and the Development of Sharia Financial Industry: A lesson from Indonesia.” *Al-Iqtishad: Jurnal Ilmu Ekonomi Syariah*, 9, 2 (July 2017).
- Anwar, Syamsul. *Maqasid al-Syari’ah dan Metodologi Ushul Fiqih dalam Fikih Kebhinekaan*. Bandung, Mizan, 2015.
- Auda, Jasser. *Maqasid al Syari’ah Ka Falsafatin Li al Tasyri’ al Islami*. . Bairut: Al Tauzi’fi al Alami al Arabi, 2012.

- . *Maqasid al- Shari'ah: an introductory Guide*, (Kuala Lumpur: IIT, 2008).
- Bakri, Asafri Jaya. *Konsep maqasid Shari'ah menurut al- Syatibi*. Jakarta: P.T. Raja Grafindo Persada, 1996.
- Feener, R. Michael. *Muslim Legal Thought in Modern Indonesia*. Cambridge: Cambridge University Press, 2007.
- Fionna, Ulla. "Manipulating 'Diversity': Campaign against Ahok Threatens Democracy." *Perspective: ISEAS Yusof Ishak Institute*, 2017.
- Gillespie, Piers. "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): pp. 202-240
- Helmy, Musthafa. "Dibahas Kembali Pedoman Penetapan Fatwa MUI." in *Mimbar Ulama. Suara majelis Ulama Indonesia, (Special edition Ijtima' Ulama*, 2012
- Huda, Qomarul, *Ötoritas Fatwa dalam Konteks Masyarakat Demokratis: Tinjauan atas Fatwa MUI dalam Perspektif Hukum dan Perundang-undangan*. Jakarta: Puslitbang Lektur dan Khazanah Keagamaan, Badan Litbang dan Diklat Kementerian Agama RI, 2012.
- Ichwan, Moch Nur. "The majelis Ulama Indonesia and the Politics of Religious Orthodoxy." in Martin van Bruinessen (ed.). *Contemporary in Indonesian Islam: Explaining the Conservative Turn*. Singapore: ISEAS, 2013.
- La Jamaa. "Dimensi Ilahi dan Dimensi Insani dalam maqasid al-Shari'ah." *Ayy-Syir'ah, Jurnal Ilmu Shari'ah dan Hukum*, 45, 2 (July-December 2011).
- Ka'bah, Rifyal. *Hukum Islam di Indonesia*. Jakarta: Universitas Yarsi, 1999.
- Majelis Ulama Indonesia. *Himpunan Fatwa MUI sejak 1975*. Jakarta: Erlangga, 2011.

- Majlis Tarjih dan Pengembangan Pemikiran Islam, PP Muhammadiyah. *Tafsir Tematik Al-Qur'an tentang Hubungan Sosial antar Ummat Beragama*. Yogyakarta: Pustaka Suara Muhammadiyah, 2000.
- Manzhur, Ibnu. *Lisaan Al-'Arab*, vol I. Cairo: Darul Ma'arif, n.d.
- Mardani. *Hukum Islam*. Yogyakarta: Pustaka Pelajar, 2010.
- Masfuk, Zuhdi. *Masail Fiqhiyah*. Jakarta: H. Masagung, 1990.
- Muallim, Amir and Yusdani. *Konfigurasi Pemikiran Hukum Islam*. Yogyakarta: UII Press, 1999.
- Mudzhar, M. Atho. *Fatwa-Fatwa Majelis Ulama Indonesia: Sebuah Studi tentang Pemikiran Hukum Islam Indonesia 1975-1988*. Jakarta: INIS, 1983.
- . "Prolog. Fatwa MUI sebagai Obyek Kajian Hukum Islam dan Sumber Sejarah Sosial." in Nahar Nahrawi et al. (eds.). *Fatwa Majelis Ulama Indonesia (MUI) dalam Perspektif Hukum dan Perundang-Undangan*. Jakarta: Puslitbang Lektur dan Khazanah Keagamaan, Badan Litbang dan Diklat Kementerian Agama RI, 2012.
- Mulia, Siti Musdah. "Fatwa Majelis Ulama Indonesia." in *Janbar: Jurnal Pemikiran Islam Kontekstual*, 4, 2 (December 2003): pp. 183-205
- Munawwir, Ahmad Warson. *al-Munawwir Kamus Arab-Indonesia*. Surabaya: Penerbit Pustaka Progressif, 1997.
- Nafis, M. Cholil. "Otoritas Fatwa terhadap Bank Syariah." in Nahar Nahrawi et al. (eds.). *Fatwa Majelis Ulama Indonesia (MUI) dalam Perspektif Hukum dan Perundang-undangan*. Jakarta: Puslitbang Lektur dan Khazanah Keagamaan, Badan Litbang dan Diklat Kementerian Agama RI, 2012.
- Niam, M. Asrorun. *Sadd al-Dzari'ah dan aplikasinya dalam Fatwa Majelis Ulama Indonesia*. Unpublished Ph.D Dissertation, UIN Syarif Hidayatullah, 2008.
- Pudjosewojo, Kusumadi. *Pedoman Pelajaran Tata Hukum Indonesia*. Jakarta: Sinar Grafika, 2001.



- Qardhawi, Yusuf. *Al Ijtihad fi al Shari'at al Islamiyah*. Translated by Ahmad Syatori, *Ijtihad dalam Syariat Islam*. Jakarta: Bulan Bintang, 1987.
- Al Qurtubi, Sumanto. *KH. MA. Sabal Mahfudh Era Baru Fiqh Indonesia*. Yogyakarta: Cermin, 1999.
- Rais, Ahmad Imam Mujadid. *Hasil Penelitian Indeks Kota Islami*. Jakarta: Maarif Institute, 2016.
- Riadi, M. Erfan. "Kedudukan Fatwa Ditinjau dari Hukum Islam dan Hukum Positif, Analisis Yuridis Normatif." *Ulumuddin*, 6, 4 (January - June 2010).
- Salim, Zafrullah. "Kedudukan Fatwa dalam Negara Hukum Republik Indonesia." in Nahar Nahrawi et. al. (eds). *Fatwa Majelis Ulama Indonesia (MUI) dalam Perspektif Hukum dan Perundang-Undangan*. Jakarta: Puslitbang Lektur dan Khazanah Keagamaan, Badan Litbang dan Diklat Kementerian Agama RI, 2012.
- Shaltut, Mahmud. *Islam: 'Aqidah wa Shari'ah*. Cairo: Dar al-Qalam, 1966.
- al-Shatibi, Abu Ishaq. *Al-Muwafaqat fi Usul al-Syari'ah*. Beirut: Dar Kutub al-'Ilmiyyah, 2003.
- Sirry, Mun'im A. *Dilema Islam Dilema Demokrasi*. Bekasi: PT Gugus Press, 2003.
- "Fatwas and their Controversy: The Case of the Council of Indonesian Ulama (MUI)." *Journal of Southeast Asian Studies*, 44, 1 (2013).
- Sumitro, Warkum. *Hukum Islam di Tengah Dinamika Sosial Politik di Indonesia*. Malang: Setara Press, 2016.
- Syafiq, Hasyim. "Majelis Ulama Indonesia and Pluralism in Indonesia." *Philosophy and Social Criticism*, 41, 4-5 (2015).
- Susanto, Burhanuddin. "Does Indonesian Ulama Council (IUC) has manipulated the Islamic law by Implementing hybrid contract in Islamic insurance (ta'min)." *IOSR Journal of Economics and Finance*, 7, 1 (September 2016).

The Jakarta Post, *Indonesia Ulema Council defends fatwa on Christmas attributes ban*, December 20, 2016, <http://www.thejakartapost.com/news/2016/12/20/indonesia-ulema-council-defends-fatwa-on-christmas-attributes-ban.html>, accessed on March 21, 2017

Uthman, Fathi. *Al Fikr al Qanuni al Islami*. Cairo: Muhayyar, n.d).

az-Zuhaily, Wahbah. *Ushul al-fiqh al-Islami*. Beirut/Damascus: Dar al-Fikri al-Mu'ashir, 1986.