



STATUS OF MUI'S RECOMMENDATION IN FACING ISLAMIC CONTEMPORARY ISSUES IN INDONESIA

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Abstract. *The research formulates the problem of how the position of the MUI's recommendation in the legal system, the position of the MUI in the Muslim community and the MUI's recommendation answers to the contemporary problems of Muslims in Indonesia. This study uses qualitative methods for data collection techniques, analysis and reports. The research findings show that in the legal system in Indonesia the MUI's recommendation does not meet the elements as a statutory regulation. Where, the MUI's recommendation is not generally binding and is not made by an institution authorized to stipulate laws and regulations, so that the MUI's recommendation does not have binding legal force, has no legal sanctions, is an appeal and information, and as a legal reference for the Muslim community, MUI's recommendation and The MPU differs from its enactment. Other findings show that for the Muslim community in Indonesia the position of the MUI's recommendation is very urgent and important because it is the foundation of the religious community and the MUI's recommendation is seen as knowledge that can educate the community. So that the MUI's recommendation is seen as being able to answer and be a solution for all contemporary problems of Muslims in Indonesia.*

Keywords: Recommendation of MUI, Contemporary problem, Islamic Society in Indonesia.

INTRODUCTION

The Indonesian Ulama Council (MUI) as a forum for deliberation of the Ulama, Zuama and Muslim scholars, has a noble role as a protector for Indonesian Muslims,

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especially in solving and answering all socio-religious and national problems that arise in the midst of society, has functions function as follows:

- (1) as heirs to the duties of the prophets (*Warasatul Anbiya*);
- (2) as a giver of recommendations (*Mufti*);
- (3) as a guide and servant of the people (*Ri'ayat wa khaim al ummah*);
- (4) as the *Islah wa al Tajdid* movement; and
- (5) as the enforcer of the *amar ma'ruf nahi munkar*.¹

As for its duties and functions, MUI is one of the institutions that has the competence to provide recommendations. The decision of the recommendation from the MUI as an answer to a variety of contemporary problems that currently very much takes place and occurs in Muslim communities in Indonesia. In deciding the recommendations, the MUI will provide recommendations in accordance with the recommendation requests addressed to it with the existing *istinbāt ahkām* methods, and by considering the social, cultural and political situation and conditions in Indonesia.

The situation and condition of Indonesian society which is very heterogeneous and heterogeneous with a variety of religions, ethnicities, customs and traditions will be a separate consideration for MUI in deciding and determining its recommendations, coupled with the development of science and technology, natural and climatic situations and conditions differ from one province and region to another, and the things contained in the fiqh book will influence the recommendations issued by the MUI. The answer given by MUI is recommendations issued through the MUI's recommendation commission collectively, both at the central level and at the provincial and district / city levels.

The determination of the MUI's recommendation is based on the Qur'an, Sunnah (Hadith), Ijma 'and Qiyas. Determination of recommendations is responsive, proactive and anticipatory. In the process of determining recommendations, a study of the priests' opinions on the issue to be recommended is carefully examined, along with its arguments. Problems that have a clear law (*al-ahkam al-qath'iyah*) are delivered as they are. Whereas in matters which are areas of disagreement among scholars / schools of

¹ Pedoman Organisasi Majelis Ulama Indonesia, diterbitkan oleh MUI, Jakarta, 2016, p. 6-9

thought, the determination of recommendations is done by finding common ground between different opinions of schools, through the method of al-jam'u wa al-tawfiq.

If the effort to formulate and determine the meeting point is not successful, the determination of recommendation is based on the results of tarjih through the method of muqaramah al-madzahib using the rules of Usul Fiqh Muqarim (comparative). Issues that do not find legal view among the schools of thought, then the determination of recommendations is based on the results of ijihad jama'ie (collective ijihad) through the Bayani method; Ta'alili (Qiyasi, Istihسانی, Ilhaqi), Istishlahy; and Sadd Al-Dzari'ah.

After a recommendation is established in the Recommendation commission forum through a process of in-depth and comprehensive discussion, and taking into account the opinions that develop, the Recommendation Commission immediately reports to the Governing Board to be announced to the public and the parties concerned.

The MUI asserted that the institution was authorized to set recommendations on religious matters in general, especially legal issues (fiqh) and aqidah issues relating to the truth and purity of the faith of Indonesian Muslims. The problems in question are problems that relate to Indonesian Muslims nationally, or religious issues in an area that are alleged to be able to spread to other regions.

Regarding the problems that have been issued by the Central MUI's recommendation, the Regional Indonesian Ulama Council is only entitled to implement it. In certain conditions where the decisions of the central MUI's recommendation cannot be implemented, the Regional MUI may set different recommendations after consultation with the Central MUI.

According to the constitutional law in Indonesia, MUI's recommendations do not bind the entire community, they only bind people and groups who have an interest in the MUI's recommendations. However, MUI's position as a place for Ulama makes its recommendations so much awaited and heeded, that they become a reference and guideline.

Although its role is very vital in the realization of ukhuwah Islamiyah and harmony among religious communities in strengthening the unity and integrity of the nation, MUI's recommendations and religious attitudes also often cause problems, even conflicts among the community. MUI in its capacity to issue recommendations and

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religious attitudes, is often used as a justification for committing acts of violence and breaking the law by intolerant groups. MUI's recommendations are used as mounts to justify the actions of intolerant groups that limit religious freedom and belief in other groups.²

The position of the MUI which was highly highlighted and became the concern of the people, especially regarding their recommendations and religious attitudes, made the MUI play a central role in the life of the nation and state. MUI's recommendation is indeed not a type of legislation that has binding legal force, but its influence is so significant for the wider community. Based on this problem, it is necessary to formulate the position of the MUI's recommendation in the legal system in Indonesia, how does the position of the MUI's recommendation in the Muslim community in Indonesia, how does the MUI's recommendation address the contemporary problems of Muslims in Indonesia?

LITERATURE REVIEW

MUI's Recommendation in the Legal System in Indonesia

Article 1 number 2 of Law Number 12 of 2011 concerning the Formation of Regulations and Regulations, stipulates that: "Legislation is a written regulation that contains generally binding legal norms and is formed or established by state institutions or authorized officials through procedures stipulated in the legislation. "

Based on the provisions of this article, a rule can be said to be a statutory regulation if 1) written; 2) contains legal norms in the form of orders, prohibitions, dispensation permits, authority and so on; 3) binding generally; 4) formed or established by an authorized official, where such authority is an authority guaranteed both by the 1945 Constitution of the Republic of Indonesia and the law; and 5) formed through the procedure set out in the legislation.

This is what Bagir Manan said: To be called a statutory regulation, it must meet the following elements: first: The legislation in the form of a written decision. Because it is a written decision, the statutory provisions as a rule of written law (*geschrevenrecht*,

² Ahmad Nurcholish, *Peace Education & Pendidikan Perdamaian Gusdur*. Jakarta: Elex Media Komputindo. 2015, p. 8.

written law); Second: Legislation is formed by officials or office environment (bodies, organs) that have the authority to make "regulations" that are applicable or generally binding (algemeen); and Third: Legislation is generally binding, not intended to always be binding on everyone. Public binding only shows that legislation does not apply to certain concrete or individual events.³

Thus it can be said that in the current Indonesian constitutional legal system, the MUI's recommendation position has moral strength for groups who have aspirations to implement it, but cannot be used as a forced tool for other groups with different opinions on it, because MUI's recommendations are not a positive state law has force to force.

METHODOLOGY

Research and the nature of the issues raised, this study uses qualitative methods for data collection techniques, analysis and reports.⁴ This research has been conducted at the Indonesian Ulama Council in Indonesia, using samples from several Indonesian Ulama Councils (MUI) in Indonesia, such as the Indonesian Ulama Council (MUI) in North Sumatra Province in Medan, the Indonesian Ulama Council (MUI) in Jakarta, and the Council Ulama Consultation (MPU) in Aceh. The reason for choosing the location was due to a fundamental difference between the prevailing MUI's recommendation and in the three research locations in certain cases.

By the technic of *purposive sampling*⁵ and *snowball sampling*,⁶ the researcher will recruit subjects and informants with the following categories and characteristics:

³ Mahendra Kurniawan, dkk., *Pedoman Naskah Akademik PERDA Partisipatif* –Cetakan ke I, Kreasi Total Media, Yogyakarta, 2007. p. 5

⁴ Denzin and Lincoln said that qualitative is a study that uses a natural setting, with the intention of interpreting phenomena that occur and is carried out by involving various existing methods. Another definition is qualitative research is research that intends to understand the phenomena about what is experienced by research subjects such as behavior, perception, motivation, actions etc., holistically and by means of description in the form of words and language, in a special natural context and with utilizing various natural methods. Lexy J. Moleong, *Metodologi Penelitian Kualitatif*, (Bandung, Rosdakarya, 2010), p. 6.

⁵*Sampling purposive* is a sampling technique with certain considerations. the selection of a group of subjects in purposive sampling is based on certain characteristics that are considered to have a close connection with the characteristics of the population that have been known beforehand, in other words the sample units contacted are adjusted to certain criteria applied based on the research objectives. See Sugiyono, *Metode Penelitian Kuantitatif, Kualitatif dan R and D*, (Bandung Alfabeta, 2001), p. 61

⁶*Snowball sampling* is a technique for determining the sample at first a small amount, then this sample is told to choose his friends to be sampled and so on, so that the number of samples more and more. Like a snowball that is rolling bigger and bigger. See Sugiyono, *ibid*.

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The subjects in this study were the Management of MUI and MPU in the three study sites. While the informants are those consisting of Islamic legal experts who are lecturers at the Faculty of Sharia, and religious leaders in the community at the research location.

FINDINGS AND DISCUSSION

The Existence of MUI Institutions in the Community

The general public knows that the Indonesian Ulama Council is a religious institution and is a forum for gathering and deliberating Muslim clerics, congregants and scholars at the Provincial, Regency and District Levels. It's just that the level of public knowledge is not the same about being a formal or informal institution whether this MUI institution in Indonesia, is a necessity in Muslim societies.

The Functions of MUI Institutions in Society

- 1) MUI has many functions in Muslim societies. Some functions of the MUI in the community as the informant said are as follows:
- 2) To answer religious problems that exist in the community.
- 3) To provide guidance to Muslims
- 4) To provide direction directions regarding issues by issuing a law such as recommendation,
- 5) As a control institution and an institution that makes recommendations that will be the direction or reference of Muslims relating to religion,
- 6) MUI institutions as Islamic movements or as upholders of *Amar ma'ruf nahi mungkar's* charity,
- 7) As a means of answering the problems of Muslims in Indonesia, other than in the Qur'an and Hadith about the halal status of a product, each product is required to use a halal label,
- 8) MUI institution is the stipulation of Islamic law in Indonesia, regarding halal or non-compliance with food, the law does this whether it is obligatory or sunnah, permissible, or haram,
- 9) As the heir to the duties of the Prophet to give recommendations and enforcers *amar ma'ruf nahi mungkar,*

- 10) Its function is to issue a law that is not in the Qur'an and Sunnah, so the MUI functions to issue the law in the form of directives or appeals.
- 11) MUI as a forum for discussion of Muslim clerics and scholars, which also serves as a reference for Muslims in Indonesia for Islamic religious life in Indonesia for the community,
- 12) The function of MUI institutions is that there are several important commissions in MUI institutions, namely the recommendation commission and this is needed by every element of the Muslim community regarding legal case issues, it is the da'wah commission that goes to every issue and every recommendation issued by the MUI to those who socialize and who preaching and then there is an advocacy commission that is providing protection to people who need help,
- 13) The function of the MUI institution is to issue something related to a problem in the community where the problem has not been answered so there is an MUI question so that the MUI issues a recommendation, whether the problem is permissible or not, permissible or haram, mubah, or makruh etc.
- 14) In its capacity the MUI institution is to admire the community to always obey the Ulama and then the MUI guiding the Islamic community to obey the rules of their religion, as a link between the MUI between umarah and ulama.

MUI's recommendations in Community Development

Regarding public knowledge about MUI's recommendations is that most people know about the recommendations that come from MUI:

- 1) Recommendation about the prohibition of smoking for pregnant women and children,
- 2) Recommendations are needs,
- 3) Recommendations about using vaccines for people who want Hajj,
- 4) recommendation on the establishment of ijma 'ulama,
- 5) Recommendation about setting Ramadan, the beginning of fasting
- 6) Recommendation about IVF,
- 7) recommendation on the need for revision of the zakat management law,

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- 8) contemporary recommendations such as recommendations on human organs, recommendations on blood transfusions and many other kinds
- 9) recommendation about religious insults,
- 10) recommendation about the status of the mosque that has been endowed,
- 11) Recommendation about the environment,
- 12) Recommendation about the prohibition of saying Christmas,
- 13) Recommendation about misguided Ahmadiyah,
- 14) Recommendations that prohibit using conventional banks,
- 15) Recommendations about the prohibition of celebrating the Christian new year (AD) and
- 16) Recommendation regarding SMS prizes.

The knowledge of recommendations in the community is very much in accordance with what becomes the MUI's task in recommending all matters related to: (1). Worship, (2). Religious Understanding, (3). Social and Community Problems, and (4). Science and technology.

Public knowledge of the recommendations issued by the MUI is very diverse, indicating that MUI institutions are very well known and influential in the religious community of Muslims in general.

Position of MUI's Recommendation in Muslim Communities in Indonesia

Generally, the public really understands and knows the position of the MUI, and the recommendations issued by the MUI regarding religious issues in the community. Namely:

1. Recommendation MUI does not have binding legal force,
2. Recommendation of MUI has no sanctions,
3. The MUI's recommendation is only an appeal and information,
4. Urgent recommendation as a legal reference for the Muslim community,
5. MUI and MPU's Recommendations are Different,
6. MUI's Recommendation Binds to Internal Muslims Only

While in the community, even though the MUI's recommendation is not legally binding but for the Muslim community, the MUI's recommendation has

a very significant position in community religious practice, as according to the community that the position of the MUI's recommendation is as:

1. MUI's Position in Indonesian Muslim Communities is Very Important and Very Needed,
2. MUI's recommendation is Very Urgent and Important Because It Is the Foundation of People in Religion,
3. Recommendation MUI is able to answer the problems that exist in the lives of Muslim communities and be the best solution of the current problems.

CONCLUSION

The Indonesian Ulama Council (MUI) is a religious institution and is a gathering place for Muslim clerics, congregants and scholars at the Provincial, Regency and District Levels. MUI has the role of providing recommendations for Muslims, both requested and unsolicited. As a recommendation institution, MUI accommodates and channels the aspirations of Indonesian Muslims who are very diverse in their schools of thought and thought and religious organizations. And as a Guidance and Servant of the People. MUI has the role of serving the people (khadim al-ummah), which is serving the people and nation in meeting their hopes, aspirations and demands. in this connection the MUI has always endeavored to meet the demands of the people, both directly and indirectly, for religious guidance and recommendations. Likewise, MUI always tries to appear in the front in defending and fighting for the aspirations of the people and the nation in its relationship with the government.

In the legal system in Indonesia the MUI's recommendation does not meet the elements as a statutory regulation. Where, the MUI's recommendation is not generally binding and is not made by an institution authorized to stipulate legislation, so that the MUI's recommendation has no binding legal force, has no legal sanctions, is appeal and information, and as a legal reference for the Muslim community, MUI's recommendations and MPU is different

In the Muslim community in Indonesia, the position of the MUI's recommendation is very urgent and important because it is the foundation of the religious community and the MUI's recommendation is seen as knowledge that can

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educate the community. The MUI's recommendation is seen as being able to answer and be a solution for all contemporary problems of Muslims in Indonesia.

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