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**The Council of Indonesian Ulama
(Majelis Ulama Indonesia, MUI)
and Religious Freedom**

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The Council of Indonesian Ulama (Majelis Ulama Indonesia, MUI) and Religious Freedom

Syafiq Hasyim¹

Setara Institute and CRCS UGM (Centre for Religious and Cross Cultural Study, University of Gajah Mada), in their annual evaluation, state that the Council of Indonesian Ulama (Majelis Ulama Indonesia, MUI), through its movement and its publication of fatwas, has obvious influence on the emergence of opposition to development of religious freedom in Indonesia.² The influence is evident from the MUI fatwas against Ahmadiyah group, secularism, pluralism, and liberalism. Islam's Defender Front (Front Pembela Islam, FPI), Islam Community Forum (Forum Umat Islam, FUI), and some Muslim political parties such as United Development Party (PPP) and Justice and Prosperity Party (PKS) are Muslim groups that use these fatwas as justification to disagree with the phenomena of Ahmadiyah, secularism, liberalism, and pluralism. Their reason of doing so is to secure (*mengamankan*) and enforce (*melaksanakan*) the edict.³ As reported by *Detikcom* (17 February 2011),⁴ Ahmadiyah spokesperson Abdul Basith, during a hearing conducted by Commission VIII of the People's Representative Council, stated that since the revitalisation of the MUI fatwa on Ahmadiyah in 2005, tragedies affecting the followers of the group have increased. He argued that protection for believers of Ahmadiyah under the current Indonesian government is poorer than it was during the Suharto era. Abdul Basith argued that even though Ahmadiyah has been banned by the MUI since the 1980s, the Suharto regime protected Ahmadiyah pupils from being discriminated against and violated by other mainstream Muslim groups. This statement was

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² See *Negara Harus Bersikap, Tiga Tahun Laporan Kondisi Kebebasan Beragama/Berkeyakinan di Indonesia 2007-2009* (Jakarta: Setara Institute, 2010), p. 19. Compare with S. Cholil et al., *Laporan Tahunan Kehidupan Beragama di Indonesia* (Yogyakarta: CRCS UGM, 2009), pp. 42-48.

³ See *Detiknews* 2005, "Ahmadiyah Sumbar Dideadline 1 Minggu untuk Bubarkan Diri," viewed on 12 April 2011, <http://us.detiknews.com/read/2005/08/03/183457/415509/10/ahmadiyah-sumbar-dideadline-1-minggu-untuk-bubarkan-diri>

⁴ See *Detiknews* 2011, "Amir Ahmadiyah: Kekerasan Terhadap Ahmadiyah Meningkatkan Pasca Fatwa MUI," viewed on 17 February 2011, <http://us.detiknews.com/read/2011/02/17/010607/1572508/10/amir-ahmadiyah-kekerasan-terhadap-ahmadiyah-meningkat-pasca-fatwa-mui>

rejected by Ma'ruf Amin, the acting chairman of the MUI, saying that the council has never published a direct instruction to discriminate against followers of Ahmadiyah despite the fact that people doing violence to the group usually quote the MUI fatwa.

This paper examines the influence of the MUI on the development of religious freedom in Indonesia. It depicts fatwas, movements, and discourses on religious freedom initiated by the MUI from the perspective of legal pluralism, human rights, and from the internal perspective of the MUI's actors. This work begins with an introduction to the social and political history of the MUI, and addresses definitions, methods, and criteria used by the MUI to denounce certain Islamic religious groups as being the *sesat* (heretical). On the basis of this, some examples of the group are also presented here. Some critical and analytical remarks are made in the latter part of this paper.

1. The MUI in Indonesia's Pre- and Post-Reform Eras

1.1. Brief History of the MUI

The existence of an ulama council is not a phenomenon unique to contemporary Indonesia but rather has roots in the early arrival of Islam to the area, from the era of Acehnese Islamic kingdoms in Aceh⁵ until today and the Indonesian state's current form. Sukarno (1901-1970) established the Council of National Ulama in 1962.⁶ Suharto came to power in 1966 and through Minister of Religious Affairs Mohammad Dahlan, funded the Centre for Islamic Propagation (Pusat Dakwah Islam) to organise an Islamic conference on 30 September – 4 October 1970 that published a final recommendation regarding the importance of establishing a council of national ulama (Majelis Ulama Nasional). The MUI was finally established on 26 July 1975. Many factors underpinned the creation of the MUI and one of them was Suharto's personal idea of creating "a single forum" that could accommodate the various interests and agendas of Muslim organisations in Indonesia. This notion is expressed in the basic statute of the MUI, which describes the Council of Indonesian Ulama as a *wadah* (forum) for consultation among Muslim leaders and scholars. However, the role of the MUI is just as an intermediary institution that does not implement practical programmes; its task is to consolidate activities and programmes that have been undertaken by other Muslim organisations.⁷

The ideological and philosophical basis of this organisation is Pancasila (Indonesia's five philosophical precepts).⁸ The organisation's main vision is to implement Islam as a religion that supports the embodiment of a secure, peaceful, and prosperous society in the framework of a Pancasila-based state. To this end, the MUI has the following main tasks. The first is to provide advice and recommendations, solicited or not, to the government of Indonesia. The second is to offer moral guidance to Indonesian Muslim society in general. The MUI does this by publishing a monthly magazine called *Mimbar Ulama*, several books of compiled fatwas, booklets, and leaflets. Besides the printed materials, the MUI also disseminates religious guidance through conferences, discussions, religious preaching, television, and radio. The third task is to publish fatwas. Different

⁵ A. Hadi, *Islam and State in Sumatera: a Study of Seventeenth Century Aceh* (Leiden: Brill, 2004), p. 108.

⁶ W. Adam, *Pola Penyerapan Fatwa Majelis Ulama Indonesia (MUI) Dalam Peraturan Perundangan-Undangan 1975-1997* (Jakarta: Departemen Agama RI Bagian Proyek Peningkatan Informasi Penelitian dan Diklat Keagamaan, 2004), p. 109, and M.A. Mudzhar, *Fatwa-Fatwa Majelis Ulama Indonesia: Sebuah Studi Tentang Pemikiran Hukum Islam di Indonesia, 1975-1988*, 2004, p. 47.

⁷ H. S. Prodjokusumo, *15 Tahun Majelis Ulama Indonesia, Wadah Musyawarah Para Ulama, Zu'ama dan Cendekiawan Muslim* (Jakarta: Sekretariat Majelis Ulama Indonesia Masjid Istiqlal Jakarta, 1990), p. 38. Compare with M.A. Mudzhar, 1993, p. 54.

⁸ Pancasila was the sole ideology of the MUI from 1975 to 2000. From 2000 onwards, because of new developments in Indonesian politics, especially the coming of the reform era, this ulama council has replaced Pancasila and instead uses Islam as its ideological foundation. See also MUI *Pedoman Penyelenggaraan Organisasi Majelis Ulama Indonesia* (Jakarta: Sekretariat Majelis Ulama Indonesia, 2010), p. 17.

from *tauṣiyah* (recommendations and advice), this Islamic edict cannot be issued by the fatwa commission without the presence of questions asked by the state apparatus or a Muslim individual. The fourth is to create *ukhuwwah islāmiyyah* (Islamic brotherhood). In this regard, the MUI organises some events and programmes that involve Islamic leaders and organisations. Besides serving to consolidate the opinions of the MUI's leaders regarding issues of Sharia law, the regular events and programmes are also used by the MUI to disseminate and share information among its stakeholders. The fifth task is to conduct *da'wah* (Islamic propagation). Since 1985, the MUI has emphasised the method of *da'wah bi al-ḥāl*, meaning Islamic propagation by means of providing examples showing consistency between that which is spoken (*al-qawl* in Arabic) and practiced (*al-ḥāl*, Arabic). This type of *da'wah* was prioritised, especially in transmigration areas, in order to compete with Christian mission movements. The sixth task is to organise training on Islam and Sharia, for instance the *pendidikan kader ulama* (training for forming ulama cadres). The seventh task is to get involved in interfaith relations. In this capacity, the MUI has tried to play a role as the representative of Muslim society in dealing with non-Muslim organisations. The eighth is to initiate social and economic activities, for instance the establishment of Bank Muamalat Indonesia and halal certification. The ninth is to build up cooperation with international agencies such as UNICEF and WHO; under this imperative, the MUI is very active in initiating communication with the ulama organisations of neighbouring countries such as Brunei, Malaysia, and Singapore. The tenth task is to run an institution called the Assessment Institute for Food, Drugs, and Cosmetics (Lembaga Pengkajian Pangan Obat-obatan dan Kosmetika, LPPOM).

Since its inception, the MUI has been led by many respected Indonesian ulama, each of whom has influenced the characteristics of the MUI. The leadership of Hamka (d. 1981), from 1975 to 1980, was focused on initiating and building communication with leaders and ulama of other established Muslim organisations such as Muhammadiyah (founded 1912), Nahdlatul Ulama (NU, founded 1926), and Persatuan Islam (Persis, founded 1923). Hamka also tried to position the MUI as a representative of Indonesian Muslims in dealings with the state and the local and international Muslim communities. Hamka resigned from the MUI in 1980 and was replaced by Syukri Ghazali (d. 1984), who served from 1980 to 1984. Ghazali's focus while leading the MUI was to improve the organisation's internal management. He passed away in 1984 and his position was filled by Hasan Basri (d. 2008), who led the MUI from 1985 to 1998. Basri tried to make the MUI the prime representative of Muslim organisations. Under Basri's leadership, the council became dominant in determining the discourse and practice of Islam in Indonesia.

1.2. Change of MUI Orientation

In the Indonesia's reform era (1998 to now), the role of the MUI has remained important. Before his resignation, Suharto sought support of some prominent Muslim leaders and invited them to give advice on ways he should deal with protests and demonstration movements against his presidency. One of the invited figures was Ali Yafie (b. 1926), who succeeded Hasan Basri as general chairman of the MUI in 1998 and served until 2000. Yafie's presence in this forum had an important impact on Suharto's resignation. Yafie was the only invited guest who could frankly tell Suharto that reformasi meant his resignation from the national leadership.⁹ Many people never expected that Yafie, as the general chairman of the MUI, would make such a statement since MUI had never spoken so directly to Suharto but instead had expressed most criticism of his policies indirectly. Yafie's suggestion sparked a controversy. Although the statement was delivered in a closed forum, the spokesman of the invited leaders, Nurcholish Madjid (d. 2005), relayed the statement to journalists, activists, and also demonstrators. Madjid's intention was to give a sign

⁹ The author had an opportunity to interview Yafie on this issue at his private residence, Bintaro Menteng Residence, South part of Jakarta, on 17 October 2010. Special thanks is due to Hilmi Ali, one of Yafie's sons, for his company and arrangement of this very rare interview.

that the Muslim figures meeting with Suharto were supportive of the reformasi movement. Due to the unusual statement, Suharto's brother Probosutedjo (b. 1930), one of Indonesia's wealthy, felt disappointed with the MUI.¹⁰ Suharto finally resigned from power in 1998.

The shift of Indonesian politics from an authoritarian to a more democratic system has presented a new opportunity for the MUI and other Muslim organisations, many of which have used the chance to undertake their own organisational reforms. From its founding in 1975 until the end of the Suharto era, the MUI has tended to support the interests of the state. The MUI's creation was possible because Suharto was able to convince the ulama of Indonesia—most of them modernist Muslim scholars—to create a more institutionalised forum of ulama. The MUI repaid Suharto's contribution by giving attention and service to the state. This is visible, for instance, in the MUI's fatwas of that era, most of which were in line with the will of the ruling regime. Nevertheless, some of the Islamic edicts did not coincide with the wishes of the state at the time, such as a fatwa that banned Muslims from delivering Christmas greetings to Christians in the 1980s.¹¹ The position of the state at that time was against the fatwa, which caused Hamka to resign from his position as the general chairman of the MUI. However, my informant said that Hamka's disappointment was directed at Religious Affairs Minister Alamsyah Ratu Perwiranegara (1925-1998) rather than Suharto.¹²

The new situation that came with the reform era has introduced a new orientation for the MUI, and the organisation's position has changed in at least three ways. First, the MUI's focus has moved from the state to the people (*dari berkhidmat kepada pemerintahan, khādim al-hukūmah, menuju berkhidmah kepada umat, khādim al-ummah*).¹³ This shift has influenced the design of the MUI's agenda and programmes. The MUI does not ignore the position of the state, but that position is now less important to the MUI than it was in the past.

While the MUI's change of orientation can be interpreted as a survival strategy, it has also made this institution more flexible to adjust the new political and social development of Indonesia's democratic regime. The internal reform of the MUI is also an effective strategy to reshape its image from being labelled as regimist to being a more independent Islamic institution. One of many factors that contributed to these changes was the leadership succession from Basri¹⁴ to Yafie in 1998. During the two years of Yafie's leadership, the social and political circumstances of Indonesia changed dramatically and this, in turn, caused the MUI to reshape its future direction.

Second, the MUI amended its basic ideology from Pancasila to Islam. This would never have happened in the Suharto era because one of the MUI's main tasks was to share responsibility with the state for maintaining Pancasila as the sole ideology not only for the state, but also for all organisations and institutions in Indonesia. The change of this ideological foundation might be part of the MUI's efforts to articulate and accommodate the possible political aspirations of the majority of Indonesian Muslims who were oppressed under the Suharto regime. By shifting this most basic foundation, the MUI has paved the way to encompass the political ideas of Indonesia's so-called majority group despite having also contributed to the re-emergence of Islamic ideology-based movements. Most importantly, since this change the MUI has been inclined to produce Islamic discourses—fatwas, statements, publications, and others—that more closely represent the

¹⁰ Interview with Yafie, 2010.

¹¹ H. S. Prodjokusumo, et al., 1990, pp. 241-242.

¹² Interview with anonymous subject, 2011. This interview was conducted at the headquarters of MUI, in Jakarta, 2011.

¹³ Interview with Yafie, 2010.

¹⁴ Basri was born in Kalimantan and passed away in 1998. He was the general chairman of the MUI and had a close connection with Suharto. See Hadariansyah, K. H. *Hasan Basri Kajian Biografis Tokoh Majelis Ulama Indonesia* (Banjarmasin: Antasari Press, 2010).

voices of radical Islamic groups than moderate ones. Although the MUI's decision to make this ideological conversion was taken in 2000,¹⁵ many Indonesian Muslims were not aware of it.

Third, in trying to get a broader reception among Indonesian Muslims, the MUI introduced the concept of *tenda besar* (big tent). This notion is aimed at making the MUI a sort of clearing house for all Muslim organisations in Indonesia. However, those who want to be accommodated within this big tent should have theological platforms and direction similar to that of the MUI. From this, actually, the notion of *tenda besar* contains both inclusive and exclusive characteristics. The former means that the MUI should be able to embrace all diverse Muslim organisations in Indonesia, and the latter means the council is able to provide a place only for those embracing Sunnite theology, not all Muslim believers. Therefore, the concept of the big tent inclines to the embodiment of primordialism rather than the politics of tolerance. As a consequence of this position, the MUI cannot make room in its membership for both *salafī* and liberal Muslim groups.

Although the term *tenda besar* has been used only since early in Indonesia's reform period, it has been established as a concept since the inception of the MUI. Suharto intended that the MUI would be a sort of representative consultative forum for all Muslim organisations in Indonesia. Suharto needed a representative body in which he could easily address and discuss many things concerning Islam, the nation state, and the development of the country.¹⁶ Therefore the tenet of *tenda besar* is a kind of rearticulation of Suharto's strategy on how to manage Indonesia's diverse Muslim organisations. Of course, from the perspective of politics, this effort could be understood as Suharto's strategy for achieving control over Indonesian Muslims in general, but in the present context this concept can endow the MUI with a sort of monopoly on interpreting Islam. Viewing Islam from the perspective of only one group is against Islam itself, which nourishes the spirit of *ijtihad* (serious effort for interpreting Islam) in every Muslim. Another dangerous effect of admitting the MUI as the *tenda besar* is that the status enables it to behave as the single watch-dog of Muslim movements, which are, in principle, very diverse and plural. The last ten years of the MUI's role reflects this situation.

Nevertheless, it is fair enough to look at the concept of *tenda besar* from the perspective of the MUI, which sees the big tent as part of its historical struggle to unify Indonesia's diverse Muslim organisations. Hamka, the first general chairman of the MUI and the most respected ulama of the time, described the delicate position of the council through an allegory; when cooking *kue bika* (a kind of Indonesian traditional cake made from rice), if the top side is heated too much the cake will burn, and similarly if the bottom gets too much heat the cake will burn, so heating must be balanced to produce a properly-cooked cake. With this allegory, Hamka tried to explain to Muslim people of Indonesia and their ulama the difficult responsibility of being a member of the MUI because the MUI should be able to implement the values of fairness and justice in accommodating both the interests of the ruling regime and the Islamic community. There are at least two important lessons to be learned from Hamka's experience. First, efforts to create solidarity and unity among Muslim organisations and ulama are not easy, and what the MUI has done can be reasonably be regarded with the status of *tenda besar*. Second, the creation of the MUI inspired a new model of mobilising diverse groups of ulama and Muslim organisations; in this process, a big tent of collective identity movements is needed.

¹⁵ In 2000, the National Consultative Meeting (*Musyawarah Nasional MUI*) was held and, citing personal reasons, Yafie declared his unavailability to be reappointed as the general chairman of the MUI for the next five-year period. Finally, the consultative meeting appointed Sahal Mahfudz (b. 1927), another scholar of Nahdlatul Ulama, as the new general chairman. The National Consultative Meeting is regarded as the MUI's highest forum.

¹⁶ H. S. Prodjokusumo et al., 1990, p. 65.

1.3. Fatwa Institution

As the *tenda besar*, the MUI has been able to become the most authoritative Muslim institution in Indonesia in the field of fatwa production. This role has been evident for the last ten years. In addition, during this decade, the MUI's fatwas have successfully captured the attention of Indonesian Muslims and non-Muslims, prompting them to talk about the interpretation of this institution in both positive and negative senses. Meanwhile, Indonesia's other Muslim organisations such as NU with *Bahsul Masa'il*¹⁷ and Muhammadiyah (the second-largest Muslim organisation in Indonesia) with *Majlis Tarjih*¹⁸ are not so prolific in issuing fatwas, and both of these organisations tend to hand their authority to issue fatwas to the MUI. Of course, both these giant Islamic organisations issue some fatwas, but the number is less than that issued by the MUI. In addition, NU and Muhammadiyah will not publish a fatwa that has been released by the MUI's fatwa commission.¹⁹ Some fatwas issued by NU and Muhammadiyah do not accord with those issued by the MUI. The most recent example of this is a fatwa on the use of a meningitis vaccine; the fatwa body of NU deems that use of the vaccine is legally allowed even by people going for Islamic pilgrimage (*al-ḥajj*) to Mecca and Medina, while the fatwa commission of the MUI does not allow it.²⁰ Nevertheless, if there is difference among the three Islamic institutions (the fatwa commission of the MUI, the *Bahsul Masa'il* of NU and the *Majlis Tarjih* of Muhammadiyah) in publishing a fatwa, usually it only happens for Islamic jurisprudence cases in which there is a tradition of having relative tolerance for *khilāfiyah* (dissenting opinion). Unfortunately, the flexibility of the *fiqh* (Islamic jurisprudence) tradition does not apply for the field of *'aqidah* (faith). The majority of the Sunnite Muslims of Indonesia believe that there is no room for discussing and debating faith (*la majāla fihi ijtihādun*). The matter of *'aqidah* is part of *ijmā'* (consensus) among Muslim ulama. It is the *usūl* (basic foundation) of Islam and Islamic jurisprudence is the *furū'* (branch). Muslims can have dissimilar interpretations of *furū'*, but not of *'aqidah*. Most importantly, there is a kind of unspoken agreement between both NU and Muhammadiyah that the authority to issue fatwas and recommendations for matters of *'aqidah* rests with the MUI. The MUI's fatwas are therefore the dominant and sole reference for matters of *'aqidah*. NU and Muhammadiyah may share the opinion that all Muslim communities should follow a single perception of belief for *'aqidah* considering that the faith is an un-negotiable part of Islam. Their reception perhaps has relation to the fact that these two organisations occupy positions on the MUI's leadership board. The only explicit opposition to an MUI fatwa was made by Abdurrahman Wahid (1940-2009) while he was chairman of NU. He offered protection to the followers of Darul Arqam, which had been banned by an MUI fatwa. For the past ten years, since the coming of Indonesia's reform era, dissenting positions like this are no longer heard. Particularly notable is the absence of any offers of help to minority religious groups who differ in belief and faith from the MUI.

Being the authoritative fatwa-issuing institution on affairs of *'aqidah* invites criticism from many elements of Muslim society, especially those who do not agree with the MUI's position. Such groups fear that the MUI and its functionaries will act as the *'aqidah* police over individuals and other Muslims organisations. In the history of Islam, it has been seen that excessive control over freedom of faith and thought can trigger the emergence of an inquisition. In such cases groups that believe different *'aqidah* from the mainstream group are victimised. The persecution of Ibn Ḥanbal due to his refusal to accept doctrine embraced by the ruling regime is a clear example.

¹⁷ *Bahsul Masail* is the section of NU responsible primarily for studying, discussing, and answering questions of Islam asked by the organisation's members.

¹⁸ *Majlis Tarjih* is a division of Muhammadiyah tasked with discussing, studying, and answering Islamic questions from members of Muhammadiyah.

¹⁹ Statement by Fatah Wibisono, a Muhammadiyah functionary who is also a member of the MUI. This interview was done in Muhammadiyah headquarters, Jakarta, on 16 January 2011.

²⁰ I inquired regarding this matter to Said Aqil Siradj (general chairman of NU) in the headquarters of PBNU in Jakarta at the end of January 2011.

The MUI seems willing and ready to accept the right to issue fatwa on matters of 'aqidah if it were to be formally granted to them. Susilo Bambang Yudoyono, the incumbent president of Indonesia, has on several occasions declared his full endorsement of the MUI as the guardian of Islamic creeds especially through its role in publishing fatwas.²¹ This indicates that the government of Indonesia bestows strong support to the MUI. During the Yudoyono presidency, the role of the MUI in influencing the public sphere—faith and belief— has increased. This is evident from the way the Yudoyono regime has followed up on important issues introduced by the MUI, such as the publication of a joint decree on Ahmadiyah and most recently a Ministry of Health circular letter banning medical doctors in state hospitals from performing female circumcisions, issued in response to the MUI fatwa on the same matter. In return for granting such influence, the Yudoyono regime receives the support of the MUI. The relationship is visible in the latest tension between Yudoyono and a group of religious leaders calling themselves *tokoh agama*, who criticise the performance of the current government.²² The *tokoh agama* state that the current regime's claim of being successful in running the state is a kind of "falsehood," and argues that in fact the wealth of Indonesian citizens is decreasing significantly. In this confrontation, the MUI is clearly on the side of Yudoyono, even though the vice general chairman of the MUI, Din Syamsuddin,²³ is a proponent of *tokoh agama*. Sahal Mahfudz, the general chairman of the MUI, said he could comprehend the content of the criticism, but feels that religious figures must use good words and to express their ideas. He states that the *tokoh agama* should be polite in evaluating the government and not use the word *kebohongan* (lie). Mahfudz believes that the religious figures are aware of their status and, therefore, should avoid inciting the people. He contends that the MUI is sufficiently brave to criticise the government of Indonesia if its policy does not support ummah (Islamic society). However, the MUI should be objective in playing its role of giving advice to the government. On the one hand, religious figures should be strict and clear in expressing the right thing, but they should also disseminate peace and politeness.²⁴ Mahfudz's statement above is intended as a criticism of the *tokoh agamas'* use of the word "kebohongan." On the basis of this, the position of the MUI is different from that of the religious figure group.

2. *Kelompok Sesat* in Indonesia

The term *kelompok sesat* (heretical group) is used by the MUI to denote the 'aqidah status of Muslim groups deviating from "purity of Islam" (Sunnite belief).²⁵ Actually, the mainstream religious group of any community always regards heretical groups as a problem; their existence is understood as a parasite on the religion by those who hold to orthodoxy.²⁶ In the context of modern Islamic Indonesia, the MUI, NU, and Muhammadiyah all understand that heretical groups should be brought back to the true Islam. The MUI is a proponent Muslim organisation that struggles to fight against these groups.²⁷ In 1978, three years after its inception, the MUI published its first fatwa which addressed the heresy of Jama'ah Muslimin Hizbullah (JMHI). The publication

²¹ See *Radar Banten*, viewed on 1 April 2011, [http://www.radarbanten.com/mod.php?mod=publisher&op=viewarticle&artid=18728\(jpnn\)](http://www.radarbanten.com/mod.php?mod=publisher&op=viewarticle&artid=18728(jpnn))

²² See "Pertemuan SBY dan Tokoh Agama Digelar Tertutup," *Kompas*, 17 January 2011, viewed on 1 April 2011, <http://www.nasional.kompas.com/read/2011/01/17/20541862/Pertemuan.SBY-Tokoh.Agama.Digelar.Tertutup>

²³ Din Syamsuddin has a double function as the general chairman of Muhammadiyah and the vice general chairman of the MUI. See "Tokoh Lintas Agama, Draf Data dan Fakta Kebohongan Publik Disusun," *Suara Karya*, 24 January 2011, viewed on 20 June 2011, <http://www.suarakarya-online.com/news.html?id=271111>

²⁴ See *Suara Karya* 24 January 2011.

²⁵ In this work, some English terms have been used interchangeably, such as "heretical" and "deviating" as the practical translation of this term.

²⁶ A. J. Konstenberger and M. J. Kruger, *The Heresy of Orthodoxy: How Contemporary Culture's Fascination with Diversity Has Reshaped Our Understanding of Early Christianity* (Illinois: Crossway Books & Bibles, 2010), p. 58.

²⁷ An interesting report on the MUI and heresy can be seen in J. Olle, "The Majelis Ulama Indonesia Versus 'Heresy': The Resurgence of Authoritarian Islam," in G. Van Klinken, *State of Authority* (Ithaca: Cornell South East Asian Studies, 2009), pp. 95-116.

of the fatwa indicated that the problem of heretical groups is the priority of Muslim people in Indonesia.

Before going into deeper discussion on this issue, it is necessary to consider the definitions, criteria, and methodology used by the MUI in categorising heresy. The MUI mentions that a group can be defined as *sesat* (heretical) from Islam if it has fulfilled at least one of following ten criteria.²⁸

- The group rejects one of the six foundations of Islamic belief (*rukun iman*) and one and the five of foundations of Islam (*rukun Islam*).
- The group believes in and follows a faith that is not in line with the teaching of the Qur'an and Sunna.
- The group believes in the presence of revelation after the Qur'an.
- The group rejects the authenticity of the Qur'an's content.
- The group interprets the text of the Qur'an without referring to the principal foundation of the science of exegesis.
- The group refuses the position of *hadith* (Muhammad's saying) as the source of Islam.
- The group humiliates, harasses, and denigrates the dignity of Muhammad.
- The group rejects that Muhammad was the last prophet in Islam.
- The group changes, adds to, or reduces any fundamental part of worship as determined by Sharia, such as asserting that the hajj is not to Mecca, or that five-time-daily prayer is not compulsory for Muslims.
- The group pronounces other Muslims as *kāfir* (unbelievers) without presenting a strong argument based on Sharia.

The ten criteria are based on the following principles.²⁹ First, the status of heresy is decided by the MUI on the basis of the Qur'an, hadith, *ijmā'*, and *ijtihad*, and on the majority opinion of the *ulama* (*mu'tabarrah*) within the Sunnite tradition. Second, the decision should contain the aspects of response, pro-action, and anticipation. Third, the issuance of fatwa is taken collectively through an official meeting involving the board members of the MUI, the research commission, and the fatwa commission. Fourth, there must be a distinction between *kesalahan* (mistake) and *kesesatan* (heresy); the former means an incorrect understanding and practice related to an aspect of Sharia and its consequence is categorised as *ma'siyah* (committing a sin), while the latter is a false understanding related to the domain of 'aqidah or also Sharia, which is absolutely incontestable in Islam, so the consequence of being this is the status of unbeliever. Fifth, the decision is made when a group insists on believing matters of false 'aqidah and Sharia as true teachings. The five categories developed by the MUI only apply internally for its member organisations. In the perspective of Indonesia's basic constitution, since the council has no legal authority under Indonesia's basic constitution to judge the truth of other Islamic organisations' beliefs, these categories are not binding for Indonesian Muslims.³⁰

Before executing a definite fatwa, the MUI usually conducts a scientific investigation. This research is led by the MUI's commission of study and research and involves the following steps. First, the commission collects data, information, evidence, and witness interviews regarding notions, thoughts, and activities of the group under investigation. To get more detailed information, hearing sessions with the deviating group are conducted. In the MUI's experience, after the hearing session is done, most groups still defend their faith. As attempts to bring groups back to a correct following of Islam, the hearings are generally unsuccessful, perhaps because the dialogue process is directed completely by the MUI, and although the MUI calls the process as dialogue, in fact the invited groups have no rights when arguing for their faith. Many people

²⁸ Majelis Ulama Indonesia, *Mengawal Aqidah Umat Fatwa MUI Tentang Aliran-Aliran Sesat Di Indonesia* (Jakarta: Sekretariat Majelis Ulama Indonesia, n.d.), pp. 7-8.

²⁹ Majelis Ulama Indonesia, n.d., pp. 7-8.

³⁰ Majelis Ulama Indonesia, n.d., p. 9.

criticise the right of the MUI to represent God in judging the faith of other Muslim groups as heretical. Meanwhile, Indonesian state law allows citizens to embrace different faiths and beliefs.³¹ Besides that, faith and belief are two fundamental elements of human beings, so to remove them from the hearts of believers is not easy. This is not to say that changing personal convictions is impossible because many people do in fact convert from one faith to another, but in this case intimidation, persecution, and *kelompok sesat* trials are not a solution. A wise way that can accommodate religious freedom on the one hand and respect for religious rights of other people on the other is required.

The second step of investigation is a legal investigation. In this step, consultation is undertaken with experts who are knowledgeable in the thoughts and activities of the *kelompok sesat*. The framework used is derived from the Sunnite tradition. Experts whose beliefs are different from the position of the MUI are not eligible to provide witness. The process of this investigation actually functions as a means of *da'wah*, to convert unbelievers to become believers. This is indoctrination rather than free thinking or open philosophical debate. Third, leaders of the heretical group are invited to meet with the knowledgeable experts for *tahqīq* (verification) and *tabayyun* (clarification) about the data, information, and evidence related to the heretical group's thoughts and activities. If theological evidence of aberrance is found, the last process in this third step is to deliver a recommendation (*tawsiyah*) regarding the heretical group. The purpose of doing this is to bring them back into the proper 'aqidah of Islam and also to force them leave the falsehood of their previous thoughts and activities. The fourth step of the investigation is to submit the research finding to the leadership board member of the MUI. The fifth and final step, if required, is for the leadership board member of the MUI to issue an instruction to the fatwa commission to undertake further discussion. On the basis of this discussion, the commission can issue a fatwa.

The MUI claims that there have been 14 Islamic deviating groups in Indonesia over the period of 1971 to 2007.³² In the last ten years, their presence has been more obvious in Indonesian public discourse. The increasing incidence of these groups may be due to two factors. First, the openness of Indonesian politics as an impact of the reform era has enabled groups to express their beliefs and faiths freely; those who were part of clandestine movements under the Suharto regime now have more freedom to practise their beliefs and faiths before the Muslim public. Second, the Indonesian media is now more independent and neutral in reporting news about religious freedom and the beliefs and faiths of various groups. The MUI sees the existence of heretical groups as a threat to the purity of Islam, and therefore believes the increasing development of these groups should be stopped. The MUI and its ally groups judge that the thoughts and activities of the *kelompok sesat* are against the rights of Muslim. Toleration of their presence will potentially cause the emergence of social unrest. In order to challenge further development of these groups, the MUI feels obliged to make serious efforts, for instance persuading them to return to the proper understanding of Islam.³³

Jama'ah Muslimin Hizbullah (JMH) was the first group to be denounced as heretical by the MUI. The JMH was established by Syaikh Wali al-Fatah in 1953.³⁴ Although it existed prior to the establishment of the MUI, the JMH became the object of an MUI fatwa. This matter began when the Attorney General of the Republic of Indonesia asked the MUI, at the time led by Ghazali, to consider the JMH's theological status and decide whether the group was still inside or outside Islam. In particular, the MUI was asked to consider four points. First, the legal status of JMH

³¹ See "Rais Syuriah PBNU Masdar F. Mas'udi: Ahmadiyah, Surga-Neraka, Urusan Allah," <http://www.pedomannews.com/tokoh-a-wawancara/berita-tokoh-a-wawancara/kabar-tokoh/1855-ahmadiyah>

³² This figure is based on Majelis Ulama Indonesia, n.d.

³³ Majelis Ulama Indonesia, n.d., p. 1.

³⁴ Rather biased information about the JMH can be found in B. I. Hafiluddin et al., *Bahaya Islam Jama'ah, Lenkari, Jakarta* (LPPI & Gema Insani Press, 1998).

followers' practise of doing *bai'at* (pledging allegiance) to the *imām* (leader) of JMH was questioned. Second, the Attorney General requested *dalīl* (basic argument) from the Qur'an and hadith regarding the terms *jama'ah* (community), *imāmah*, and *khalīfah* (both are Islamic leadership) and *bai'at*, which are different from the concepts proposed by this group. Third, asking again to MUI why the JMH did not stop their activities even though MUI has banned. Fourth, the Attorney General requested more information about the JMH. In responding to these questions, the MUI's fatwa commission held two meetings, making its decision regarding the theological status of the JMH in the second meeting on 2 August 1978.³⁵ The fatwa addressed two points. First, the JMH embraced theological teaching that was different from the mainstream Islam of Indonesia. Second, on the basis of this, the JMH's understanding of Islam was deviating from the Qur'an and hadith.³⁶ Intensifying da'wah was needed to correct the JMH's deviant beliefs. In addition to these answers, the MUI also published a detailed guideline for explaining the key terms used by the JMH as requested by the Attorney General on the basis of the most trusted sources of Islam.

The MUI also ascribes the status of heresy to Ahmadiyah Qadiyan. Different from Ahmadiyah Lahore, the Qadiyan believes the prophecy of Mirza Ghulam Ahmad after the death of Muhammad. In 1980, the MUI issued a fatwa that stated that the was heretical. Two important points were made to respond to the position of Ahmadiyah at that time. First, the religious status of Ahmadiyah is no longer Islam. This decision was made by the MUI after conducting serious research on nine books used by the Ahmadiyah sect as foundational sources, including *Tadhkirah*³⁷ and *Da'wat al-Amīr*.³⁸ Second, in order to deal with possible complicated consequences resulting from the presence of the group in society, the MUI should coordinate with the government of Indonesia.³⁹ This fatwa was then justified by a recommendation of the MUI National Work Meeting (*Rapat Kerja Nasional MUI, or Rakernas MUI*), held on 4-7 March 1984. This recommendation was published to criticise the legal status of Ahmadiyah, which had been issued by the Ministry of Justice in 1953. In the perception of the council, the legal entity of Ahmadiyah group would create: (1) the possible occurrence of social and public unrest among Indonesian Muslims because this group is against Islam; (2) the rise of conflict especially in the field of worship; (3) the emergence of a threat to social order and state security. On the basis of the three considerations, the MUI tried to convince the authority to review the Qadiyan's legal status. So far, the government of Indonesia has not given a serious response to the demand, and there have been no serious efforts on the part of the MUI and its groups to look into the silence of the ruling regime. The MUI's involvement was downplayed because the government of Indonesia at that time was powerful and did not want to be dictated to by non-state actors in the making of policy, especially in religious affairs. Therefore, even though it was banned, the Qadiyan was still safe in practising their beliefs.

In 2005, the MUI fatwa on Ahmadiyah was revitalised.⁴⁰ The re-publication of this Islamic edict was based on various considerations including a growing demand among mainstream Muslim groups to stop Ahmadiyah's activities. Unlike during the Suharto era, the support from the Muslim community in this era to implement the fatwa on Ahmadiyah was strong or even excessive. Almost no Muslim groups, including the so-called progressive Muslim organisations such as NU and Muhammadiyah, refused this fatwa. One thing that they did not agree on,

³⁵ The first meeting was held on 12 July 1978.

³⁶ Majelis Ulama Indonesia, n.d., p. 80.

³⁷ Followers of the Ahmadiyah Qadiyan believe this book to be a compilation of revelations received by Mirza Ghulam Ahmad.

³⁸ The Indonesian translation of this book is done by Sayyid Shah Muhammad al-Jaelani. It has been published by Yayasan Wisma Damai since 1989.

³⁹ Majelis Ulama Indonesia, n.d., p. 54.

⁴⁰ This fatwa was decided on the occasion of the National Consultancy Meeting (Munas) VII, 26-29 July 2005.

however, was the use of violence as a way of implementing this fatwa.⁴¹ Although Hasyim Muzadi (the general chairman of PBNU, 1999-2010), for instance, does not recognise this group as Islamic and advises its followers to create a new religion, he does not tolerate the persecution of the group's members. As citizens of Indonesia, the pupils of Ahmadiyah have a right to receive the protection of the state.⁴² A similar position is taken by Muhammadiyah. Din Syamsuddin (the current general chairman of Muhammadiyah) sees the MUI fatwa as a reaction to the unstoppable heresy of Ahmadiyah.⁴³ In the hearing session of Indonesian parliament, which was done to respond to the Cikeusik tragedy, Religious Affairs Minister Suryadharma Ali (2009-present) agreed with the MUI's fatwa about the ban of the Qadiyan.⁴⁴ This statement was made as a response to the massacre in Cekeusik, Banten, on 6 February 2011, in which three Ahmadiyah members were killed by a militant Islamic group. These cases show that MUI's influence in Muslim society is increasing, while its influence with the state remains significant.

Besides paying attention to specific organisations, the MUI also polices *tafkīr* (thought) through fatwas. This is illustrated by the MUI fatwa called *Pendangkalan Agama dan Penyalahgunaan Dalil* (trivialisation of religion and misuse of *dalīl*), which is not aimed at any specific Islamic group such as Ahmadiyah, but rather at anyone who would attempt to trivialise the role of religion and misuse *dalīl* (religious argument based on the Qur'an and hadith). The fatwa states, "[e]ach effort that is intended to trivialise the role of religion and to misuse religious *dalīl* is categorised as destroying purity and stability of religious life."⁴⁵ This Islamic legal opinion, published in the era of Hamka's leadership, does not explicitly explain what is meant by trivialisation of religion (Indonesian: *pendangkalan agama*) and misuse of religious argument (Indonesian: *penyalahgunaan dalil*), but rather leaves both ideas ambiguous. To know the meaning of both tenets is necessary considering that the MUI can use the ambiguity of this fatwa to attack those who do not share the MUI's understanding of Islam. Islam would allow *ijtihād*, meaning roughly that each individual Muslim can develop his/her religion by making a serious effort to interpret the essence of the religion. However, one doing this risks being judged as trivialising and misusing Islam, especially if the final conclusion of this effort does not concur with the thinking of mainstream Muslim organisations. The fatwa has been invoked against Liberal Islam Networks (Jaringan Islam Liberal) and others who struggle for pluralism, liberalism, and secularism. In short, it is of great concern that judgment of the trivialisation of religion and the misuse of Islam seems to be used as a means to police the intellectual activity of progressive Muslim groups.

Another group denounced by the MUI as heretical is Inkar Sunnah (Sunna rejectionist group). This name is taken from its rejection of the tradition of the Prophet Muhammad (Sunna) being regarded as the second primary source of Islam after the Qur'an. The fatwa commission of the MUI decided the theological status of this group in a meeting on 27 June 1983. The fatwa was actually prompted by questions posed to the council by Irham Sutanto, an employee of PT. Unilever Indonesia. In answering the questions, the MUI used two main points of consideration to reach its conclusion about the deviant status of the group. First, they referred to the primary argument that the Qur'an, hadith, and the consensus of ulama (*ijmā*) require all Muslims to recognise hadith as the most important resources of Islam after the Qur'an. Second, in the context of Indonesia's religious and social fabric, the beliefs of this group could engender cruelty among

⁴¹ As reported by our media, militant Muslim groups such as FPI and FUI have opted to use violence in following up on the MUI fatwa on Qadiyan. Many attacks on the group have taken place in many parts of Indonesia but the state's apparatus are not able to stop the attacks.

⁴² See "Bentrok Cikeusik, KH Hasyim Muzadi Minta Ahmadiyah Keluar dari Islam", 7 February 2011, <http://www.tri-bunnews.com/2011/02/07/kh-hasyim-muzadi-minta-ahmadiyah-keluar-dari-islam>

⁴³ See Din Syamsuddin, "Ahmadiyah Anggap Pemeluk Keyakinan Lain Kafir," 5 March 2011, <http://www.tribunnews.com/2011/03/05/din-ahmadiyah-anggap-pemeluk-islam-orang-kafir>

⁴⁴ See *Detiknews* 2011, "Menag Ahmadiyah Qadiyan yang Sesat," viewed on 9 February 2011, <http://us.detiknews.com/read/2011/02/10/012328/1568162/10/menag-ahmadiyah-qadiyan-yang-sesat>

⁴⁵ Majelis Ulama Indonesia, n.d., pp. 82-3.

Muslims and, in turn, pose a threat to national security.⁴⁶ If Muslims as Indonesia's majority group were angry at the Inkar Sunnah group, it would destabilise the harmony of religious life that is protected by the new order regime.

The fatwa on this group emphasised five points. First, a religious group that does not believe in the hadith as the second primary source of Sharia is categorised as heretical and out of Islam. Second, those who have consciously followed this group were reminded to return to the true path of Islam (*tawbat*). Third, all Indonesian Muslims were warned not to be influenced by the notions of the group. Fourth, ulama were expected to provide guidance and advice for those returning to Islam. Fifth, the fatwa demanded that the government of Indonesia take assertive action to ban the teachings of the group. This fatwa is actually standard and follows what has been discussed in the books of fiqh because the emergence of the Inkar Sunnah is an old phenomenon in Islam. In the Islamic state system, this group can be judged as *murtad* (apostasy). Most Muslim organisations share the same position as this MUI fatwa because believing in the Sunnah as the second source of Islam is a foundation of Islamic belief (Indonesian expression: rukun iman). In the doctrine of Sunnite theology, belief in the presence of God's prophets is the second of six things that all Muslims should believe completely. If one believes in the prophets, one should believe in what has been said (*aqwāl*), practiced (*a'fāl*), and approved (*taqrīr*) by the prophets including Muhammad. However, in the context of Indonesia's state system, the MUI has no right to decide the legal status of this group. The task of the MUI here is just to answer questions posed to it, but those answers are not legally binding to the state.

In 1984, one year after the issuance of the fatwa on the Inkar Sunnah group above, the MUI published a recommendation⁴⁷ on the Islamic status of Shia.⁴⁸ According to the council, Shia that had increasingly developed was foundationally different from Sunni. Their differences, according to the MUI, are based on the following points. First, Shia rejects the use of hadith that was not narrated by *ahl al-bait* (the Prophet's relatives from the line of Faṭimah and 'Alī), whereas Sunni does not make a distinction between what was narrated by the *ahl al-bayt* (close relatives of Prophet Muhammad) and by others as long as the scrutiny of hadith follows the science of *mustalaḥ al-ḥadīth*.⁴⁹ Second, Shia assumes that all their leaders (*imāms*) are protected by God against committing wrongful actions whereas Sunni argues that as human beings, all imāms are capable of making mistakes. Third, Shia does not admit the legality of Islamic consensus (*ijmā'*) without the presence of their imāms, while mainstream Sunni understands that an agreement among ulama even with the absence of the highest rank of their spiritual leaders is legal. Fourth, Shia believes that the establishment of an Islamic state is part of religious obligation, while Sunni views that the *imāmah* (leadership) is part of efforts to ensure the implementation of da'wah and the interests of Muslim society. Fifth, Shia does not recognise the leadership of Abū Bakr, 'Umar, and Uthmān, whereas Sunni acknowledges the three and also 'Alī as the Prophet's rightly-guided companions. Referring to this, the MUI advises all Indonesian Muslims who are followers of Sunni to take care against the spread of Shia.

This recommendation does not admit Indonesian Islam's debt to the Shiite saints and traders who brought Islam to the soil of Indonesian archipelago. Some historians who study Indonesia argue that the version of Islam that first came to Indonesia was Shiite Islam, as evidenced by the presence of the Shiite tradition in Aceh. Many Acehnese people adopted the Shiite names such as Ali, Haidar, Fatimah, and others. In addition, up to the present day, some Shiite festivities are still

⁴⁶ Majelis Ulama Indonesia, n.d. pp. 68-74.

⁴⁷ Unlike a fatwa, a recommendation (Arabic: *tausiya*) can be published by the MUI without the presence of any question from other people.

⁴⁸ That the Islamic status of Shia was decided in the Munas of MUI, 1984, indicates the importance of this issue. By the statutes of the MUI, the Munas is the highest forum for deciding the organisation's policy.

⁴⁹ This is the science of terms, narrations, and transmission of hadith.

observed in some parts of Indonesia.⁵⁰ Although it has contributed to Indonesian Islam, the Shiite community has not developed extensively. Nevertheless, at least prior to the war of Padri in Minangkabau, relations between the Shiite and Sunnite communities were relatively harmonious. This war, during which many Shiite followers were killed by Sunnite followers, became a sort of first persecution of the Shiite group.

The MUI's recommendation is now more than two decades old. It was issued precisely five years after the Iranian Revolution in 1979. At the time the recommendation was issued, information about Shia in this country was still very limited, and the government of Indonesia viewed Shia as being synonymous with the Iranian Revolution. The Indonesian government therefore worried that the Islamic uprising in Iran would inspire Indonesian Muslims to attempt something similar. Due to this, books and other related discourses on Shia could barely be found in Indonesia. Another consideration was that the transfer of discourse on Shia from Iran to Indonesia could challenge the progress of national development, which became a big concern to the Suharto regime considering the fact that Indonesia was also a close partner of the United States of America and the Iranian Revolution overthrew that country's US-supported regime. A criticism of the recommendation is that the diversity of religious thought within Shia is not considered. Nevertheless, from a geo-political perspective, the recommendation was understandable if it was intended as a means to protect the integrity of Indonesian Islam from the expansion of Iranian Islam. However, the five points of the MUI's recommendation are not something taken for granted. They can be criticised because the theological differences of Shia and Sunni still leave room for debate. The Sunnite ulama perceive that Shia is deviating from Islam, while Shiite clerics—especially the extreme faction—view that Sunni is heretical. However, if we look at this matter from a broader perspective of Islamic history, both Sunni and Shia remain in the domain of Islam. Historically speaking, these Islamic sects were born at almost the same time and were originally shaped by ideological and political factors more so than theological ones. The current trend in the Muslim world is for Sunnite and Shiite Muslims to recognise each other as followers of Islam. Both are solid members of the international Muslim community. Abdurrahman Wahid is good example for this case; he admitted that Shia is the fifth school of thought of Islamic law, so in his perception Shia and Mu'tazila are counted among Indonesian Muslims.⁵¹

Thus, in this context, the MUI fatwa above is no longer relevant today. The MUI should review this edict in order to avoid perpetuating the council's image as an Islamic fatwa institution that always bans others. In addition to this, currently in Indonesia the development of the Shiite community has improved. Although their identity is still obscured to some degree, their activities are visible. The presence of Shiite associations and education institutions such as Jamaah Ahlul Bait⁵² in Jakarta and also ICAS (the Islamic College for Advanced Study) are the good examples of the future development of this community in Indonesia.⁵³

Islam Jama'ah, which literally means the community of Islam, began to establish itself in Indonesia in the 1970s, but the government of Indonesia banned the group in 1971, four years prior to the establishment of the MUI. The reason behind this policy was to avoid social consequences that could occur among Indonesian Muslims due to the presence of the group. Its core teaching is, as the MUI has stated, that Muslim society must have *amīr al-mu'minīn* (leaders of believers) as the central leaders to whom people can surrender. Those Muslims who join this group should *bay'at* (pledge loyalty during an initiation) to the *amīr al-mu'minīn* and by doing so are guaranteed

⁵⁰ C. Marcinkowski, *Shi'ite Identities, Community and Culture in Changing Social Contexts* (Zürich: Verlag GmbH & Co. KG Wien, 2010), p. 202.

⁵¹ D. Dhakidae, *Cendekiawan dan Kekuasaan dalam Negara Orde Baru* (Jakarta: Gramedia Pustaka Utama, 2003), p. 605.

⁵² This Jama'ah is led by Jalaluddin Rahmat, a Bandung-based Muslim intellectual. He is also the founder of Muthahhari Center for Accelerated Learning (Mcenter) in Bandung. See C. Marcinkowski, 2010, p. 205.

⁵³ C. Marcinkowski, 2010, p. 205.

entrance to heaven. The group states that the most correct path of Islam is Islam Jama'ah.⁵⁴ The Jama'ah also teaches that everyone who receives bay'at from the imām should cut off relationships with other people, including parents or other relatives, who have different concepts of theology. Members of the group are not allowed to follow prayer led by any imām (prayer leader) who is not part of their group. Members may not allow their clothing to be touched by non Jama'ah members, and if clothing does get touched it should be washed. A husband must convert his wife to the group because if she refuses the imām will dissolve the marriage. A legal marriage is bound under the auspice of amīr al-mu'minīn and the marriage sermon has to be delivered in the Arabic language.⁵⁵

There are four points in the fatwa of Jama'ah. First, the teaching of the group is against Islam. Second, all Indonesian Muslims should endeavour to bring other Muslims who have been members of the Jama'ah back to the purity of Islam. Third, ummah are advised to increase the activity of da'wah by supporting mass media and other related forums and targeting the young generation, students, and artists who are eagerly pursuing the correct Islam. However, proselytising is best prioritised towards members of the Jama'ah. Fourth, if the Jama'ah movement is detected around us, Indonesian Muslims should report to a provincial office of the Attorney General of Indonesia, providing strong evidence that the presence of this group would potentially create cruelty and divisions among families and members of Muslim society.⁵⁶ Regarding the fourth point above, as a fatwa institution, the MUI has the right to make this recommendation, but the Attorney General is not bound to follow up the fatwa. The Attorney General, because it represents the state, should be in a neutral position and has no right to judge the faith and beliefs of any group. The crucial role of the state in the current situation is its interference and support given to the MUI by the publishing of a legal ban that uses the MUI's fatwa as reference.

A fatwa regarding the heresy of Darul Arqam was also published by the MUI. The Arqam is an Islamic organisation founded by Haji Anshaari Muhammad (b. 1937) in Malaysia in 1968,⁵⁷ and it arrived in Indonesia soon after its inception. In 1992, the fatwa commission of the MUI intensively discussed and studied about this group. The MUI argued that the *Aurad Muhammadiyah*⁵⁸ of Shaykh Suhaymi (b. 1925) was incorrect in the perspective of Islam. The council concluded that the teachings of Islam have been complete since the death of Muhammad, with no subsequent new teachings because there has been no prophet sent to us after Muhammad. This was what the MUI wanted to correct concerning the falsehood of Darul Arqam's notions. In 1994, issues about the Arqam re-emerged because some regional offices of the MUI proposed to discuss it again on the occasion of the National Silaturahmi Meeting in Pekanbaru, Riau, Sumetara, on 16 July 1994. On this occasion, the following items regarding the status of the Arqam were decided. 1) The core tenet of this group, the *Aurād Muhammadiyah*, was categorised as deviating from Islam. 2) To secure the purity of Islam, social order, and security, the council proposed that the Attorney General ban this group. 3) Muslim society, especially the younger generation, was asked to avoid the influence of the Arqam. 4) Those who had followed this group should return to the correct path of Islam. 5) Activities of Islamic propagation, especially those undertaken by Muslim preachers, should be intensified.

Nevertheless, discourse about the Arqam did not cease with the publication of the MUI's recommendation. The higher level of the MUI's meeting (Rapat Paripurna Majelis Ulama Indonesia) that involved all provincial-level chairmen of the MUI proposed to review this issue on

⁵⁴ Departemen Agama, *Himpunan Fatwa Majelis Ulama Indonesia* (Jakarta: Bagian Proyek Sarana dan Prasarana Produk Halal Direktorat Jenderal Bimbingan Masyarakat Islam dan Penyelenggaraan Haji Departemen Agama RI, 2003), p. 98.

⁵⁵ Departemen Agama, 2003, p. 98.

⁵⁶ Departemen Agama, 2003, pp. 98-99.

⁵⁷ D. Dhakidae, 2003, pp. 603-604. This group was banned by 'Muzakarah Jawatan kuasa Fatwa Majlis Kebangsaan on 6 October 1986.

⁵⁸ *Aurād Muhammadiyah* is a sort of guidance for the followers of this group to do *dhikr* (remembering God).

14 August 1994. The review was based on several considerations. First, there were some decisions taken by the MUI at the provincial level and the Attorney General of the Republic of Indonesia that banned the circulation of books published by Darul Arqam, such as *Aurad Muhammadiyah*, *Presiden Soeharto Ikut Jadwal Allah*,⁵⁹ and also the enormous reaction of Indonesian Muslim communities to this group. Second, considering the importance of maintaining social order and national security, the MUI finally determined the heresy of the Arqam. In the meeting, new items were incorporated in a proposal aimed at strengthening the National Silaturahmi's recommendation. These additional points were considered by the council to support policy adopted by some of the MUI's provincial-level chapters concerning the deviant status of the Arqam. Second, the council expressed approval for the instruction of the Attorney General prohibiting the Arqam's books. The MUI decided this during the term of Hasan Basri as the general chairman and Prodjokusumo as the secretary. Both were ulama from the modernist Islam of Indonesia. Attorney General offices in nine provinces—Sumatera Barat, Sumatera Utara, Aceh, Riau, Jawa Barat, Jawa Tengah, Jawa Timur, Nusa Tenggara Barat, and DKI Jakarta—adopted the same position as the MUI. Their reason was that the presence of this group threatened the harmony of Indonesia's religious life, Pancasila, and the National Guidelines of Indonesia (Garis-Garis Besar Haluan Negara, GBHN).⁶⁰

Unlike the MUI and the Attorney General offices of the nine provinces, NU did not issue a ban on the Arqam. This decision was taken by NU in its official meeting in 1994. On the basis of this decision, Abdurrahman Wahid, as general chairman of NU, offered his assistance to protect the Indonesian followers of this group. What Gus Dur (nickname of Abdurrahman Wahid) did was not only against the authority of the MUI, but also that of the state. Gus Dur's offer also contained a sort of implicit criticism to remind the MUI that Islam does not recognise any specific institution as having the right to decide the religiosity of other Muslims.⁶¹

In a somewhat similar case, a messianistic group led by Lia Aminuddin (b. 1947) claimed that their leader is accompanied by and receives guidance from the Angel Gabriel. This claim has elicited various responses from Muslim people, but mainstream Muslims believe that no one other than the Prophet Muhammad can meet Gabriel. The MUI's involvement began when Andan Nandriasta, an ordinary man, wrote to the MUI on 4 October 1997 asking about the Islamic status of the group. The council deemed the group's claim as heretical and against Islam.⁶² However, before issuing its edict, the MUI's fatwa commission invited Aminuddin to provide clarification on 4 November 1997 but she insisted on maintaining her belief.

Following this process, the MUI issued the following fatwa about the heresy of this group. First, faith in the Angel Gabriel, especially concerning Gabriel's tasks and characteristics, should be based on the Qur'an and hadith. Second, there is no single verse of the Qur'an and hadith implying that Gabriel is still on duty especially to deliver revelations from God to human beings either for new or old religion. Third, the declaration that someone is accompanied by and gets revelations from God through Angel Gabriel is against the finality of the Qur'an, therefore, the notion can be regarded as aberrant from Islam. The council has specifically advised Aminuddin and others who have similar beliefs to learn more about the 'aqidah of Islam, the Qur'an, and hadith from ulama. The MUI gave a general reminder to all Muslim society not to embrace faiths that are against the principles of the Qur'an and hadith. In this case, the MUI offered to guide and direct Aminuddin and others who have gone beyond the correct Islam. The fatwa was declared on

⁵⁹ The book was published on the basis of instruction by the Attorney General of the Republic of Indonesia, INS-006/J.A/08/1994. It is written by Abuya Shaykh Imam Azhari Muhammad and published by PAI (Penerbit al-Arqam Indonesia), Depok, West Java.

⁶⁰ D. Dhakidae, 2003, p. 605.

⁶¹ D. Dhakidae, 2003, p. 605.

⁶² Regarding Lia Aminuddin and Jamaah Salamullah, see A. S. Mufid, *Taklukan, Abangan, dan Tarekat: Kebangkitan Agama di Jawa* (Jakarta: Obor, 2006), pp. 258-259.

22 December 1997 when the council was under the leadership of Basri. Persecution of this group did not attract public attention because the power of the ruling regime at that time was strong.

In the reform era, the issue of Lia Eden has re-emerged in Indonesia's public discourse. This has occurred because Eden and her group have not ceased their activities even after being punished for blasphemy in 1996 with 16 months of imprisonment and because all Indonesian Muslims can freely express opinions about this case. Almost all Muslim organisations can accept the Eden trial process. Gus Dur himself agreed that Eden should be punished for five years.⁶³ Liberal Islam Network (Jaringan Islam Liberal, JIL), however, had a different perception as mentioned by its main proponent, Assyaukanie, who argued that the case of Eden was almost the same as that of the early period when Muhammad was spreading new belief. He also viewed that the state had no need to intervene the status of someone's belief.⁶⁴ The Eden problem could re-emerge again in the near future if the relationship between the state and religion remains unchanged.

A most far-reaching fatwa was issued by the MUI in 2005: fatwa No. 7/MUNAS VII/MUI/11/2005 on Pluralism, Secularism, and Liberalism.⁶⁵ This fatwa prohibits these three notions for three reasons. First is the increasing receptiveness in Indonesia's Muslim society to these three ideas, which ultimately threatens the purity of Islam. Second, the MUI regards that these three notions stipulate harshness among Muslim societies and, in turn, has driven some of them to seek a fatwa from the MUI. Third, on the basis of this request, the council issued this Islamic edict, which is expected to become a compass for Muslim society.

The fatwa starts with a general introduction of secularism, liberalism, and pluralism, as determined through the MUI's research. Although the council claims that the investigation was based on adequate reference, it does not guarantee that there were no mistakes or misinterpretation. Such could occur because discourse on pluralism, liberalism, and secularism has progressively developed and there is a wide spectrum of variants beyond the definition given by the MUI.

Three points are mentioned in the general guidance of the fatwa. First, pluralism is a notion that conveys that all religions are the same and hence the correctness of all beliefs and faiths in the world is relative. No believer should claim that his/her religion is the only true conviction and others are wrong. The council also says pluralism means that all believers of different religions will all go and live together in heaven. Second, the plurality of religions is a social fact in many countries and places. The MUI agrees with plurality but not pluralism. Third, the council sees that religious liberalism allows interpretation of the verses of the Qur'an and Sunnah on the basis of absolute freedom of thought. The MUI also made the judgement that religious liberalism can only accept religious teachings that comply with rational thinking. Fourth, secularism is an ideology that makes a separation between the affairs of mundane life and the sacred. The MUI also views that religion in the secular domain is only to regulate the connection between God and human beings. Relationships among people are ruled under the social contract. All the aforementioned points are the MUI's perception.⁶⁶

⁶³ See "Gus Dur: Lia Eden Layak Dihukum Lima Tahun," viewed on 17 June 2011, <http://international.okezone.com/read/2008/12/20/1/175424/gus-dur-lia-eden-layak-dihukum-lima-tahun>; compare with "Gus Dur: Lia Eden Layak Dihukum 5 Tahun," viewed on 17 June 2011, http://nu.or.id/page/id/dinamic_detil/1/15218/Warta/Gus_Dur_Lia_Eden_Layak_Dihukum_5_Tahun.html

⁶⁴ See "UU Penodaan Agama: Tokoh JIL: Kesalahan Lia Eden Sama dengan Kesalahan Nabi Muhammad," viewed on 17 June 2011, <http://us.detiknews.com/read/2010/02/17/161636/1301515/10/tokoh-jil-kesalahan-lia-eden-sama-dengan-kesalahan-nabi-muhammad>

⁶⁵ Majelis Ulama Indonesia, *Fatwa Munas VII Majelis Ulama Indonesia* (Jakarta: MUI, 2005), pp. 58-66.

⁶⁶ Majelis Ulama Indonesia, n.d., pp. 91-93.

On the basis of this assessment, the council decided to issue a fatwa. First, liberalism, secularism, and pluralism are against the doctrine of Islam. Second, Muslim societies of Indonesia are not allowed to embrace these three notions. Third, in the domain of 'aqīdah and 'ibādah (worship), Muslim societies should be exclusive, meaning that they are prohibited to mix and combine their faith and rituals with others. Fourth, in the domain of social and cultural life, Muslim societies should be inclusive, meaning living peacefully with non-believers.

The fatwa elicited various responses from progressive and moderate Muslim groups. Most of them believe that the fatwa opposes religious freedom and faith. Debate centres on the use of the fatwa to object to those having different Islamic thought from the MUI, and it seems that the edict is not based on serious scrutiny of the newest discourse concerning liberalism, secularism, and pluralism. In fact, the proponents of these principles, using the same terms, can reach an understanding of them different from the MUI's definition. The MUI addressed controversy about the three notions in the explanation chapter of the fatwa, saying that meanings of secularism, liberalism, and pluralism that do not coincide with the meanings specified by the MUI are not the subject of the fatwa. In this case, the chapter states that the definitions proposed by this ulama institution are based on the interpretation and reading of the MUI's references and are not intended as academical, but rather as empirical definitions that refer to the living conditions of Muslim society. One additional explanation is that the pluralism banned by the MUI is pluralism understood as religious syncretism and relativism.⁶⁷

Al-Qiyadah al-Islamiyah is a religious group established by Ahmad Mushaddeq. This group states that its leader, Mushaddeq, has received disclosure since 2006. This group is judged as *sesat* by the MUI because it introduces a conception of 'aqīdah that is contrary to Islam. Three considerations form the basis of the MUI's conclusion that the group is out of Islam. First is the group's use of a new *shahadāt* (declaration statement for embracing Islam): "*ashhadu alla ilāha illa allah wa ashhadu anna masīh al-maw'ūd rasūlullah.*" Mushaddeq claims himself as the *al-masīh al-maw'ūd* (the promised figure). Second is the group's belief in the presence of a prophet after Muhammad. Third, according to the group, five-time-daily prayers, fasting, and pilgrimage are not regarded as compulsory for Muslims. On the basis of the teachings, the MUI issued a fatwa banning al-Qiyadah al-Islamiyah. Members of this group were denounced as *sesat* (heretical) and *murtad* (apostates). In this fatwa, the MUI also reminded those embracing the faith of al-Qiyadah to return to the true Islam. The council stated that this group has defamed Islam; therefore, according the state law, the government of Indonesia is obliged to disallow the spread of the group, to stop all its activities, and to bring its leaders to court.

3. Religious Freedom and Legal Pluralism

Although all the heretical groups discussed above are defined by the fatwas of MUI as contradicting Islam, from the perspective of religious freedom, their position has to be protected by the state. The basic constitution of Indonesia bestows full freedom for all citizens of Indonesia to embrace and practice their beliefs. In reality, many tragedies victimising heretical groups have occurred in Indonesia. Examples include the incidents where followers of Ahmadiyah were persecuted in Cekeusik (a small region of West Java) and churches were burned in Temanggung (a district of Central Java) in the first and second week of February 2011. These two tragedies illustrate the vulnerability of heretical groups in Indonesia. Religious freedom is considerably contested and debated among citizens of many countries, but mainstream groups have always dominated such competition. Since Indonesia's reform era, with the increase of Indonesian piety and political deregulation, the situation of religious freedom is implemented. However, since

⁶⁷ MUI, 2005, pp. 130-31.

Indonesia's reform era there have been cases of splinter groups of the so-called mainstream Muslim organisations showing intolerance and extremism towards minority and heretical groups while using the arguments of Islamic orthodoxy.⁶⁸ This is actually the real threat to implementing religious freedom in Indonesia.

Indonesia has not typically had to face challenges to religious freedom that have been seen in Western tradition.⁶⁹ In the context of Indonesia, State Law No. 1/PNPS/1965 on blasphemy remains as a solution to protect integration and harmonious relations among believers despite the fact that some Indonesian figures have proposed a judicial review of the law. The MUI and some figures of mainstream Muslim organisations such as Muzadi (the general chairman of NU, 2009-2010), Din Syamsuddin, and the government of Indonesia refused the process proposed by the Religious Freedom Advocacy Team on 1 December 2009.⁷⁰ For these groups, the presence of the blasphemy law is still needed. Suryadharma Ali, the Minister of Religious Affairs, argued that if the law is eliminated, the state would potentially be endangered because abolishing the regulation could trigger the rise of religion-based conflicts. As an involved party that opposed the judicial review, the position of the MUI was very clear. Ma'ruf Amin (acting chairman of the MUI) said that the judicial review would establish the emergence of "freedom without limit" in Indonesia. If the demand for a judicial review was accepted by the Supreme Court, bans on religious heresy and blasphemy could not be enforced. Amin insisted that the judicial review must be rejected and that the status of the law had to be improved. He further argued that what Indonesia needs now is to have more strict regulations and laws to overcome the presence of heretical groups.⁷¹

Behind these arguments is the MUI's perception of the definition of freedom. The council denotes this word as something that will have a negative impact on the religious life of Indonesia.⁷² The terms "freedom" and "liberal" are always understood by the mainstream Muslim groups of Indonesia as Western concepts that are intentionally used to destroy Islam. The MUI argues that religious freedom paves the way for heretical groups to flourish.⁷³ The council needs to stop the increase of such absolute freedom that can lead Muslim society to heresy and anxiety

⁶⁸ L. A. Leo, *Annual Report of the United States Commission on International Religious Freedom, May 2010* (Washington: U.S. Commission on International Religious Freedom, 2010), p. 256.

⁶⁹ Historically speaking, the discourse of blasphemy is more grounded in the Western tradition than in Islam. Because of this, it is rather out of context when the MUI and other Islamic mainstream organisations have used the argument of defamation to sue Ahmadiyah and other similar groups. Alain Cabantous, a French historian, said that blasphemy led to the death of Jesus Christ and the death was followed by resurrection. In addition, this can be claimed as a principle part of Christianity. Literally, blasphemy can mean to fight against, to wound, and to destroy religious faith. See T. Asad, "Free Speech, Blasphemy, and Secular Criticism," in T. Asad et al., *Is Critique Secular?: Blasphemy, Injury and Free Speech* (Berkeley: University of California Press, 2009). However, as a concept, the definition of blasphemy changes from one time to another. It has been part of human history since the era of Greek and Roman tradition in which blasphemy was always associated with a betrayal of the state. According to the Bible, someone committing blasphemy is judged as a traitor to God and society. Moreover, the root of blasphemy in Western tradition rested on the misuse of God's name and religious image. Attacking religious images was a main issue of blasphemy in the early history of Christianity. Historians state that blasphemy was regarded as an act of betrayal. In the history of classic Rome in which the state converted to Christianity, blasphemy was symbolised with the destruction of paganistic religions. It was the consequence of state adoption of the dogma of Christianity. In the present day, many Western countries have eliminated their blasphemy laws because the use of such law is contrary to religious freedom. See D. Nash, *Blasphemy in the Christian World* (New York-Oxford: Oxford University Press, 2007).

⁷⁰ The judicial review was proposed by Abdurrahman Wahid, Siti Musdah Mulia, Maman Imanul Haq, and Dawam Rahardjo together with Lembaga Studi Advokasi Masyarakat (ELSAM), Perhimpunan Bantuan Hukum Indonesia (PBHI), Perkumpulan Studi HAM dan Demokrasi, Perkumpulan Masyarakat Setara, Yayasan Desantara, and Yayasan Lembaga Bantuan Hukum Indonesia (YLBHI). See Detikpos, 2010, "Inilah Undang-Undang Tentang Penodaan Agama," viewed on 8 March 2011, <http://www.detikpos.net/2010/04/inilah-undang-undang-tentang-penodaan.html#ixzz1FznID2lq>

⁷¹ See "Pemerintah Keberatan Pencabutan UU Penodaan Agama," viewed on 8 March 2011, <http://www.tempointeraktif.com/hg/hukum/2010/02/04/brk,20100204-223522, id.html>

⁷² See "Pengantar" in MUI, *Mengawal Akidah Umat Fatwa MUI tentang Aliran-Aliran Sesat di Indonesia* (Jakarta: Sekretariat Majelis Ulama Indonesia, n.d.), p. i.

⁷³ See "Mukadimah" in MUI, n.d., p. 1.

about their belief.⁷⁴ As a group of ulama, the MUI feels responsible. More than that, the MUI is quite influential not only in overseeing the exercise of religious freedom, but also endorsing government intervention concerning heretical religious groups such as Ahmadiyah and others through its publication of bans. The council has complained that aberrant groups use religious freedom discourse as a means to get more reception in the context of Indonesia's state law. Indeed, the MUI is quite successful in encouraging the government of Indonesia to publish MUI bans.⁷⁵ The MUI remains considered by the state of Indonesia as representative of Muslim society in Indonesia. This modality has paved the way for the MUI to exercise its influence over the state in matters of religious freedom.

The present situation of religious freedom bears some resemblance to historical experiences of Western society regarding their laws on blasphemy and heresy. In the case of Indonesia, the ruling thought is Sunni-Islam. As the proponents of this school of Islamic thought, the MUI and most other Muslim organisations feel obliged to defend the dominance of their religious ideology. Arguments used by the council are similar to those used by Christians in opposing pagan religions; groups and individuals who have different beliefs are denounced as deviant. According to the MUI and other mainstream Islamic groups, the religious rights of Sunni-Muslims are violated by the presence of Ahmadiyah, which should therefore be banned from Indonesia.⁷⁶ Mahfudz Md, the current chief judge of Indonesia's Constitutional Court said that only God has the right to judge whether a group is heretical or not. He follows Gus Dur's wise argument that God does not need to be defended. Mahfudz Md also states that the constitution of Indonesia does not allow one group to be eliminated because their beliefs differ from those of the mainstream. The actions of Ahmadiyah could become the subject of legal justice, but their beliefs should not.

Back to the MUI, one of its mandates, of course, is to preserve the purity of 'aqidah of Islam by, among other actions, issuing fatwas.⁷⁷ The MUI's decisions are culturally binding to those who seek them. Of course, when asked to publish a fatwa, the MUI has to respond to this demand, although in Islam a fatwa is only legally binding on the one who is asking the question. The law of Indonesia provides no secular or Islamic legal basis to compel all Indonesian Muslims to comply with an MUI fatwa. In Indonesian law, the 1945 constitution never mentioned or established the MUI as an official part of Indonesia's state apparatus. In addition to this, Indonesian Muslims have no legal contract requiring compliance with the MUI. Unfortunately, the state apparatus often requests fatwas even though it is not demanded by the constitution. For instance, the Attorney General is allowed to pose questions to the MUI, but the council's answers cannot be used as vehicles or inspiration to ban specific faiths and beliefs. More than that, the state often sidelines the constitution in order to accommodate pressure from the MUI, as seen in the case of Ahmadiyah. The MUI is not wrong to pressure the state because, in the context of Islamic life, the council's concern is to limit rather than protect religious freedom. In this regard, the council can ban Ahmadiyah or other heretical groups, but the state of Indonesia should not take such bans into consideration to enact policies restricting religious freedom. The constitution declares that the state should be fair and impartial.⁷⁸ There are two reasons: first, use of an MUI fatwa as the basis for enacting a law could be deemed as a violation of constitutionally-guaranteed freedom of faith and belief; second, imposing the ideas of a specific religious group upon the beliefs of other groups is

⁷⁴ See "Mukadimah" in MUI, n.d., p. 1.

⁷⁵ Most fatwas published by the MUI concerning aberrant groups include a special demand or recommendation calling for the state to intervene. The MUI uses two approaches in expressing its wishes for state intervention. First it uses persuasion. Second, it states the call as an imperative that the state must act upon. The former approach is characteristic of fatwas issued in the era of Suharto's new order because the MUI at this time was part of the state's interest and the position of the state was very powerful, while the latter is characteristic of fatwas produced in Indonesia's reform era in which the council is relatively strong and independent from the state. In the latter case, the MUI has a stronger bargaining position in relation to the state, therefore it can act more effectively as a pressure group.

⁷⁶ See "Pengantar" in MUI, n.d., p. i.

⁷⁷ See "Mukadimah" in MUI, n.d., p. 2.

⁷⁸ M. F. Mas'udi, *Syarah Konstitusi UUD 1945 Dalam Perspektif Islam* (Jakarta: Alvabet, 2010), pp. 156-157.

against the notion of state neutrality. Masdar F. Mas'udi (chairman of the NU's consultative board) argues that all religions of Indonesia, regardless of their political party or ethnicity, have to be treated equally before the law.⁷⁹

4. Institutionalisation of Ulama: Some Reflections

The presence of various legal orders in the modern history of Indonesia is one of the main vehicles for the emergence of problematic issues concerning religious freedom in Indonesia. Those striving for Sharia assert that Indonesia should be regulated under Islamic law and those struggling for a secular nation state argue that the country should enforce secular law. Although Indonesia's founding fathers agreed on Pancasila and the 1945 constitution as Indonesia's basic state philosophy and ideology at independence, tension between these two groups has continued until the present day.⁸⁰ In Indonesia's reform era, the aspiration to implement Islam as positive law is re-emerging in different forms from the previous era. Advocates of Islamic law still admit that the form of the state is Pancasila, but Sharia could be used as law because Pancasila, in their perspective, is not contrary to Islam. What the MUI and also radical Islamic groups strive for in issuing fatwas on the aliran sesat is mostly driven by this position. The Pancasila state is final for MUI, but it does not stop the MUI's effort to impose Sharia into the state law of Indonesia.⁸¹ However, the legal system of Indonesia allows adoption of religious and secular values in the construction of national law. If a provision of Islamic law is, for instance, transferred to the state law, the process of doing so should be based on the basic characteristics of Indonesian law, which is neutral in regard to religion and respectful of human rights. The state should also be able to implement the principles of justice and it has no right to judge the belief and faith of other groups because both are basic rights of human beings. Unfortunately, the government of Indonesia has indicated its inclination to defend the position of the MUI and other radical Islam groups, as evidenced by the publication of the joint decree among three state agencies—the Ministry of Religious Affairs, the Ministry of Home Affairs and the Attorney General—that limit the role of Ahmadiyah. In the modern concept of the nation state, the state is prohibited from discriminating against certain citizens on the basis of faith and religious affiliation. When the state of Indonesia follows the will of the MUI and Islamic radical groups, it follows orders to discriminate.⁸²

The existence and implementation of more than one legal system in a single country, with the consequent complications, is tolerable from the perspective of legal pluralism theory. The state of Indonesia, with many laws originating in Islamic, colonial, adat, and tribal systems, is an actual example of such a case. What defines legal pluralism in Indonesia is the inclusion of norms, regulations, and institutions built by society to ensure national stability.⁸³ To some degree, the presence of the MUI can be said to be an indicator of legal pluralism in the context of its support for the implementation of Sharia law. However, as a nation state, Indonesia is limited in the extent it can accommodate the absorption of such a religion-based order into the national legal system. Here, inclusive and fair negotiation among the actors of various legal orders must play a role. The basis of this process is the national law of Indonesia and universal human rights.

⁷⁹ M. F. Mas'udi, 2010, p. 156.

⁸⁰ On this issue, see L. Assyaukanie, *Islam and the Secular State in Indonesia* (Singapore: ISEAS, 2009), and A. Salim, *Challenging the Secular State: the Islamization of Law in Modern Indonesia* (Hawai'i: University of Hawai'i Press, 2008), and for a more general context, see A. A. al-Naim, *Islam and the Secular State: Negotiating the Future of Shari'a* (Cambridge: Harvard University Press, 2008).

⁸¹ Interview with Sahal Mahfudz (general chairman of the MUI), 2011 at his residence in Jakarta.

⁸² This can be seen from *Keputusan Bersama Menteri Agama, Jaksa Agung, Dan Menteri Dalam Negeri Republik Indonesia*, No. 3/2008, on "Peringatan dan Perintah Kepada Penganut, Anggota, Dan/Atau Anggota Pengurus Jemaat Ahmadiyah Indonesia (JAI) Dan Warga Masyarakat."

⁸³ The International Council on Human Rights Policy, *When Legal Worlds Overlap: Human Rights, State and Non-State Law* (Switzerland: ICHRP, 2009), p. 3.

The role of the MUI in matters of religious freedom is also visible from the aspect of its institutionalisation. Historically speaking, the establishment of the council involved many debates among Indonesian ulama. One of many topics discussed at that time was whether the institutionalisation of such an ulama council could enhance or diminish the prophetic role of the group. However, such speculation did not stop the process resulting in the MUI's establishment in 1975. In a very interesting speech, Suharto said, "[i]n every nation or community, the process of development requires the participation and responsibility of entire elements of society regardless of their religious background. Because of this, the religious community should abandon primordialism (*kesempitan-kesempitan paham mereka dan kelompok-kelompok agama mereka yang sempit*) in order to understand and achieve broader conception and experience at the levels of both region and nation."⁸⁴ From this statement, we can understand the urgency of setting up the MUI for the interests of the ruling regime. Furthermore, Suharto said, "[u]sing different words, because all of us highly value the first verse of Pancasila, belief in one God, religious harmony is not only a slogan, but should be implemented in the real situation."⁸⁵

The current role of the MUI is very different from what Suharto hoped. Instead of securing national religious harmony, the MUI currently produces many fatwas that tend to contribute to social tension among Indonesian believers.⁸⁶ The increasing role of the MUI's fatwa commission makes the MUI prolific in responding to many issues. By their nature, the fatwa institutions of any place and time are inclined to become judgmental and conservative in preserving Islamic values. Coupled with this phenomenon is the MUI's attempt to upgrade its influence from the theological and social level to the legal one by establishing the National Sharia Board (*Dewan Syariah Nasional, DSN*) and the commission of law and legislation in 2002. With these commissions, the MUI has more modality and support from many experts in influencing national law in line with the provisions of Sharia law.⁸⁷ Even though the MUI's efforts are legal, the constitution and laws of Indonesia do not grant the MUI any special status different from other Muslim organisations. The deep historical connection with the ruling regime does not necessitate special treatment for the MUI. Apart from that, the basic constitution of Indonesia gives no special role to the MUI. However, like many other organisations, the council has the right to access state funding. Consequently, the state apparatus has no strong reason to grant special attention to the council, but similarly we have no reason to challenge the MUI's initiatives in this matter. In this framework, the MUI acts as the catalyst of Muslim aspiration for infiltrating Sharia into the body of state law.

Another fact is that the institutionalisation of the MUI is a modern invention not found in the history of Islam. During the early formation of Islam, the institutionalisation of ulama never happened because at that time the role of Muslim scholars was as individuals. The formation of several *madhhab* (schools of Islamic thought) occurred in the third century after the death of Muhammad. Usually, a madhhab was established not by its main scholar, but by the companions of its main scholar. Most of the early founding Muslim scholars of Islamic law—Hanafi, Mālik, Shāfi'ī, and Ibn Hanbal—stated that their thoughts were not to be officialised in a specific container of Islamic thought. Perhaps, since the beginning, they were aware that Islam does not recognise a clergy system, so they feared that any effort to create a hierarchical structure would create a hierarchical system in Islam. Historically, fatwa institutions were typically established due to the need of Muslim rulers (kings) for resource persons from whom to seek advice and answers on Islamic issues. However, fatwas were still not legally binding to Muslims unless they were

⁸⁴ H. S. Prodjokusumo et al., *15 Tahun Majelis Ulama Indonesia* (Jakarta: Sekretariat Majelis Ulama Indonesia Masjid Istiqlal, 1990), p. 66.

⁸⁵ H. S. Prodjokusumo et al., 1990, p. 68.

⁸⁶ See at "MUI Dinilai Telah Jadi Inspirator Tindakan Kekerasan," viewed on 20 June 2011, http://nu.or.id/page/id/dinamic_detil/1/3548/Warta/MUI_Dinilai_Telah_Jadi_Inspirator_Tindakan_Kekerasan.html

⁸⁷ Regarding the task of this commission, see Majelis Ulama Indonesia, *Pedoman Penyelenggaraan Organisasi Majelis Ulama Indonesia* (Jakarta: Sekretariat Majelis Ulama Indonesia, 2010).

legalised in Sharia court, but then they were no longer called fatwas, but *qadā'* (court decisions). The establishment of ulama institutions, not found in the early history of Muhammad and his companions, is a kind of innovation (*bid'ah ḥasanah*) for Islamic civilisation. From a modern perspective, the institutionalisation of ulama is an exercise of human rights, specifically the freedom to organise, for individual Muslim scholars. In the context of Indonesia, this right is fully guaranteed in the constitution. As citizens of the state, ulama have the right to participate in influencing the national agenda, including through the creation of an organisation like the MUI. Nevertheless, the position of ulama is just like any other ordinary citizen because Indonesia does not grant any special citizenship status on the basis of religion, ethnicity, or gender. Therefore, if the state has granted a special position to ulama, it means that both the state and the Muslim scholars have fallen into a collaboration to abuse human rights. In short, the institutionalisation of ulama in the MUI is a way of accommodating the interests of a religious group within the democratic system. It has no connection with the group having a special status within the country. Moreover, it bears resemblance to the historical emergence of civil society organisations in Western tradition.

The final part of analysis here addresses the MUI's belief system. The Sunnite theology is a basic 'aqidah not only for the MUI but also for other Muslim countries. In Pedoman Dasar MUI (the basic statute of the MUI), Islam is the principal foundation of the organisation. However, by Islam, the MUI means Sunni-Islam. The consequence of holding a specific belief is that the MUI disqualifies all other concepts of theology that are incompatible with the Sunnite theology. This is evident from the MUI's fatwas, statements, and recommendations, which are based on Sunnite literature. The council believes in the Sunnite theology as the most correct and complete theological tenet of Islam. The MUI's theological preference is fine, but it would become a hindrance to religious freedom if it were used to neglect other systems of theology.⁸⁸ Indeed, the MUI tries to simplify the complicated and broad debates of Islamic 'aqidah. There are many matters of Islamic theology that we cannot debate in our current situation of Indonesian Islam, even though they were questioned by our previous ulama. For example, the difference between two founders of Sunnite theology, al-Ash'ārī and al-Māturidī, on the *ṣifāt* (attributes) of God, cannot be viewed as part of *khilāfiyah fī al-furū'* (dissenting opinions in the field of Islamic branches), but rather is really a kind of *khilāfiya fī al-aṣl* (dissenting opinions in the field of faith) because the two were debating the mode of God's existence. Islamic history recorded the bitter tragedy of Ibn Hanbal's persecution in the *miḥnah* (inquisition) because he rejected the 'aqidah of the ruling regime's belief that the Qur'an is *makhlūq* (creature) of God.⁸⁹ From this specific case, there are two lessons to be learned: first, using differences of 'aqidah affiliation as a means for excluding other communities is dangerous for the future of Indonesia because it links belief with politics and power; second, those punishing Ibn Hanbal were never considered in our history as being against Islam.

The MUI's fatwas related to 'aqidah are more simple and direct. The MUI transformed the Sunnite theology to become the Sunnite faith, from the science of God to the faith of God. As a consequence of this effort, the focus of the MUI is how to implement the faith, not discuss it. A further implication is that the science of God is no longer developed in the context of Indonesia in particular and the Muslim world in general. New thought on specific aspects of *kalām* (another name for the discipline of theology), for instance, is the target of Islamic accusation. The broad system of Sunnite faith is reduced to the Sunnite version of al-Ash'ārī and al-Māturidī as two main founders of Sunnite theology. Favouring a specific system of theology, even within the scope of

⁸⁸ See more MUI publications such as Majelis Ulama Indonesia, *Mengawal Aqidah Umat: Fatwa MUI Tentang Aliran-Aliran Sesat di Indonesia* (Jakarta: Sekretariat MUI, n.d.), Majelis Ulama Indonesia, *Fatwa Munas VII Majelis Ulama Indonesia* (Jakarta: Majelis Ulama Indonesia, 2005), and Majelis Ulama Indonesia, *Ijma' Ulama Keputusan Ijtima' Ulama Komisi Fatwa se Indonesia* (Jakarta: Majelis Ulama Indonesia, 2009).

⁸⁹ See W. M. Patton, *Ahmed Ibn Hanbal and the Mihna: A Biography of the Imam including an Account of the Mohammedan Inquisition Called the Mihna, 218-234 A.H.* (New York: Casimo, 2010).

Sunni, means excluding other concepts of belief. In this framework, those leaving the bounds of the Sunnite theology can be judged as doing heresy and the status of heresy is the same as *riddah* (apostasy). The original definition of apostasy is when someone replaces his/her belief in Islam with another belief, not when someone leaves Sunni and embraces Shia. It is important to sincerely realise that the configuration of Islamic belief is not formulated by a single factor; not those agreed upon only by Sunnite ulama, but also by Shia, Mu'tazila, and many other Muslim theologians and scholars. The situation is more colourful if we also look at theological discourses embraced by Sufi groups such as Rabi'a al-'Adawiya, Ibn 'Arabī, and al-Hallāj. Islamic discourses on the possibility of a person receiving *wahy* (revelation) after the Prophet Muhammad, God's personification in the face of human beings, and many other examples, which are addressed sensitively in present-day Indonesia, were permitted topics of discussion in the history of Islam.

One interesting point to note here is the success of the council in conveying the meaning of *īmān* (belief) as 'aqidah (faith). The definition of 'aqidah is quite different from that of *īmān*. The former derives from the Arabic root '*aqdun*, meaning contract. Having Islamic 'aqidah means committing to a personal binding agreement with Islam. In the classic discourse of Islamic Sharia, Asad says that 'aqidah is a personal relationship between a human being and God (*baynahu wa bayna rabbihi*). It neither follows a continuum nor is a binary status of believing/unbelieving. In this framework, the concept of weak and strong faith is introduced.⁹⁰ Asad also points out the absence of worldly sanction upon those who do not have the correct 'aqidah, as mentioned by the Qur'an. The legal sanction of *riddah* is imposed not because of apostasy but because of its political and social consequences. On the basis of this, it is almost impossible to judge the faith of Ahmadiyah as demanded by the MUI and other mainstream Muslim organisations.⁹¹

Regardless of the historical background of its establishment, the MUI is an ordinary institution, like many others in Indonesia. The MUI's proclamations are not legally enforceable upon the Muslim people of Indonesia. Indeed, some fatwas published by the MUI's fatwa commission on the heretical groups would have no legal power if they were not legalised or adopted by the state through regulations. At the time of the MUI's creation, the state of Indonesia needed to set up a single fatwa organisation in anticipation of the pluralism of Islamic strands in Indonesia. The MUI's original function was to accommodate the diversity of Muslim organisations and thought in an inclusive forum. In adjusting to the demands of political and social changes, this role has changed. Fair treatment for heretical groups of Indonesian Islam requires a return to inclusiveness on the part of the MUI on the one hand and the neutrality of the state on the other hand.

Since the start of Indonesia's reform era, the MUI's orientation has shifted in regard to its view of Indonesia's nation-state. The MUI's public discourse, official documents, and other related publications emphasise that the Unitary State of the Indonesian Republic (Negara Kesatuan Republik Indonesia, NKRI) is final and there can be no reason for the establishment of an Islamic state; nevertheless, the MUI believes that within this framework, Islamic law can be incorporated into the state law so long as this is done through a democratic process. On this basis, the Islamisation of Indonesia's state law is justifiable from the perspective of the MUI. However, the historical foundation of Indonesia, which was not constructed on the basis of religion, makes this effort questionable.

The claim that the MUI has intentionally enhanced Islamisation is not entirely valid. In fact the state of Indonesia needs Islamisation. Evidence of this need is the ruling regime's support for the MUI's agenda and programmes. The frequent requests from the Attorney General and other state departments and ministries for MUI fatwas and other recommendations are another strong

⁹⁰ T. Asad, 2009, p. 42.

⁹¹ Majelis Ulama Indonesia, n.d., p. 80.

indicator. The state and the MUI have long had a close relationship. Sometimes the state does not agree with the MUI's decisions, but in most cases the state needs the legitimacy of the MUI. President Yudoyono, in an opening speech at MUNAS 2010, affirmed that the issuance of fatwas, especially on matters of 'aqidah, is the prerogative of the MUI. Additional state endorsement of the MUI's role is evident in the establishment of the DSN and the LPPOM. The DSN is given authority by the state law of Indonesia to grant certification for the establishment of sharia banks including supervising the financial activity and products and recruiting the sharia board of sharia banks and finance industries. The LPPOM is responsible for drawing on halal fatwa certification. Learning from the description above, there must be a mechanism that, on the one hand, allows the MUI to continue playing a role in Muslim society and, on the other hand, encourages the state to be neutral and objective in dealing with religious freedom in Indonesia.