

## **Between Exclusivity and Inclusivity of Institutions: Examining the Role of the Indonesian Ulema Council and Its Political Fatwa in Handling the Spread of Covid-19**

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### **Abstract**

The Indonesian Ulema Council (Majelis Ulama Indonesia, MUI) was stigmatised as an institution accommodating conservative Islamic groups' interests post-New Order. However, the religious fatwas produced by the MUI during the Covid-19 pandemic in 2020 had prioritised independence so that it returned to its original role, namely as a translator of government policies. For this reason, this article aims to examine the MUI fatwas and its relationship to state policies in tackling the spread of Covid-19. It is a qualitative research study with a historical approach, examining the content of seven fatwas issued by the Fatwa Commission (Komisi Fatwa) between March and July 2020 as the primary data sources. This study found that MUI's legal arguments and methods are more inclusive, flexible, and progressive towards socio-religious problems. These fatwas have become a reference for the government in taking policies to suppress the spread of Covid-19. It is reinforced by the fact that several fatwas issued by MUI were used as guidelines by the government in formulating policies to curb the spread of Covid-19. Therefore, the authors argue that the MUI's fatwa politics not only serve the interests of the Muslim community but also align with the state's interests in tackling the spread of Covid-19. Thus, the debate regarding the stigmatisation of the role of MUI can be dismissed through these findings, providing new insights into the dynamic interplay between religious and legal frameworks.

**Keywords:** Covid-19 Handling Policy, Fatwa, Indonesian Ulema Council, Legal Argumentation, Political Fatwa.

### **Abstrak**

Majelis Ulama Indonesia (MUI) telah distigmatisasi sebagai lembaga yang mewakili kepentingan kelompok Islam konservatif pasca masa Orde Baru. Namun, dalam konteks pandemi Covid-19 pada tahun 2020, fatwa-fatwa keagamaan yang dihasilkan oleh MUI menunjukkan independensi yang lebih besar, memperkuat peran mereka sebagai penghubung antara kebijakan pemerintah dan masyarakat. Oleh karena itu, artikel ini bertujuan untuk menganalisis fatwa-fatwa MUI dan relevansinya dengan kebijakan negara dalam menangani penyebaran Covid-19. Artikel ini merupakan penelitian kualitatif dengan pendekatan historis dan menganalisis isi tujuh fatwa yang dikeluarkan oleh Komisi Fatwa antara Maret dan Juli 2020 sebagai sumber utama. Penelitian ini menemukan bahwa argumentasi hukum dan metode fatwa yang digunakan oleh MUI lebih inklusif, fleksibel, dan progresif terhadap isu-isu sosial dan keagamaan. Hal tersebut diperkuat dengan fakta bahwa sejumlah fatwa MUI telah dijadikan panduan oleh pemerintah dalam pengambilan kebijakan untuk menekan penyebaran Covid-19. Oleh karena itu, para penulis berargumentasi bahwa politik fatwa MUI tidak hanya berperan sebagai lembaga yang melayani kepentingan umat Islam tetapi juga sejalan dengan kepentingan negara dalam penanggulangan penyebaran Covid-19. Dengan demikian, perdebatan mengenai distigmatisasi peran MUI dapat ditepis melalui temuan dalam artikel ini yang memberikan wawasan baru mengenai interaksi dinamis antara kerangka kerja agama dan hukum.

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**Kata Kunci:** Kebijakan Penanganan Covid-19, Fatwa, Majelis Ulama Indonesia, Argumentasi Hukum, Fatwa Politik.

## INTRODUCTION

Most scholars worldwide have studied the Coronavirus Disease-19 (Covid-19) pandemic from health and legal (Sodik, 2020; Seery et al., 2021; Garcia et al., 2021; Serrano-Lorenzo et al., 2021; Ni'mah, 2021), but relatively few have discussed it in the socio-religious aspect. This latest trend only discusses issues of terrorism, politico-religious involving religious communities, and community responses to limiting religious rituals (Norlen, 2020; Begović, 2020; Sukamto & Parulian, 2020; Zaenuri, 2020; Sambo et al., 2022; Joob & Wiwanitkit, 2023; Sidik, 2023). Meanwhile, other research trends related to spiritual practices during the pandemic followed the Indonesian Ulema Council (Majelis Ulama Indonesia, MUI), which issued fatwas restricting religious traditions. This trend can be traced by compiling MUI fatwas in 2020: (1) guidelines for organising worship; (2) procedures prayers for medical personnel who treat patients of Covid-19; (3) guidelines for managing bodies infected with Covid-19; (4) guidelines for the *Takbir* (kind of expression glorifying god) and *Eid al-Fitr* prayers; (5) guidelines for the *Eid al-Adhā* prayers and the slaughter of sacrificial animals; (6) procedures Friday prayers; and (7) utilising the *zakāt, infāq*, and alms (types of charity) during the Covid-19 pandemic (Indonesian Ulema Council, 2020). The seven fatwas still cause controversy in people's lives, especially for Muslims (Hilmy & Niam, 2020; Jauhari & Ghoni, 2020; Agustino, 2020). In responding to the controversy, this research is essential to see the relationship between religious legal products produced by MUI and state policies in tackling the spread of Covid-19.

Several previous studies regarding religious legal products issued by MUI can be classified into three typologies. First, the writings discuss deeply the legal products produced by MUI in the New Order (Mudzhar, 1993; Hooker, 1997). These studies argue that the MUI and its religious legal products have had a significant role in translating state policies and becoming a forum for the unity of the ulama. Second, researches focus on changing the position and attitude of the MUI after the New Order. These studies found that MUI can influence national policies to benefit Muslims (Hosen, 2004; Ichwan, 2005; Lindsey, 2012). Third, the research trend is paying attention to religious legal products related to protecting religious minorities, upholding the value of pluralism, and prioritising aspects of democracy. These studies argue that the role of MUI has been co-opted by Islamic conservatism and tends to be exploited by specific communities that are shown to have affiliations with radical groups (Ropi, 2010; Sirry, 2013; Nasir, 2014; Schäfer, 2019; Alnizar, 2019; Hasyim, 2020). The three typologies show that the role of MUI in producing religious legal products has undergone changes from the New Order regime to the present.

Thus, the evidence for the contradictory actions of the MUI's role is still a matter of discussion by previous scholars. This debate can be confirmed through research conducted by Saat (2016: 549). He argued that the MUI's conservative fatwas had shown the weakness of this institution's role in dominating religious discourse and public morality. The matter has drawn resistance from community organisations that have affiliations with Islamic conservatives. During the debate over the product of religious law, this study tries to unravel the relationship between religious fatwas and government policies in tackling the spread of Covid-19. The growing hypothesis states that the role of MUI in the contemporary era has returned to the *khittah* (line of action) as a religious institution for Muslims. For this reason, this study complements the initial studies, which state that the spiritual law products issued by the MUI tend to support government policies (Mudzhar, 1993; Hooker, 1997).

Studies that correlate religious legal products with state policies in tackling the spread of Covid-19 are an essential complement to previous studies on religious legal products produced by MUI. Using a historical approach and using the seven fatwas made by the Fatwa Commission from March to July 2020 as the primary source, the authors argue that the arguments and methods of fatwas issued by the MUI are more inclusive, flexible, and progressive towards socio-religious problems. The seven fatwas were analysed as all were issued by MUI as preventive and responsive measures in addressing the widespread dissemination of Covid-19 in Indonesia and globally. This phenomenon was unprecedented for MUI, emphasizing the importance of analysing its role in producing these fatwas. The seven religious fatwas show that MUI has emphasised its role as an institution serving the interests of Muslims following the state's interests in tackling the spread of Covid-19. This paper denies recent studies on MUI religious fatwas, which tend to accommodate the interests of conservative Islamic groups.

## **RESULTS AND DISCUSSION**

### **MUI Fatwa Politics: From The New Order To Reform**

MUI is a religious institution that accommodates Islamic scholars, leaders, and intellectuals to foster, guide, and protect Muslims in Indonesia. Indonesia's most authoritative institution in producing fatwa has existed for 46 years and was first established on 26 July 1975. On its official website, the MUI has four roles that it has performed so far. First, leader and guide for Muslims in realising religious and social life following sharia. First, it serves as a leader and guide for Muslims in realizing religious and social life following Sharia. Second, it acts as the *mufti* (fatwa givers) and advisors concerning religious and social issues. Third, it functions as a mediator between the ulama and the government, fostering reciprocal liaison between the Muslim community and the government. Fourth, it operates as a forum representing Muslims in cooperation and relations between organizations, Islamic institutions, and Muslim intellectuals, providing guidance on religious life (Indonesian Ulama Council, 2018).

In contrast to Islamic parties and other Islamic organisations, the MUI plays its political role in issuing religious legal products in fatwas and the *tausiyah* (Islamic recommendation). President Suharto stated this limitation on the MUI roles at the First National Conference of the MUI on 21 July 1975. He forbade the MUI to participate in politics and practical programs (Mudzhar, 1993: 63). Before the MUI was formed, the ulama had played an essential role in various fields, including politics, from before the colonial period to the New Order. The ulama had ruled over most Islamic empires in the 16th century. They mobilised the masses to fight against the Dutch during the revolution (1945-1949) and became the leaders of most political parties in 1950-1959. The ulama limited their role to religious matters only in the Soekarno regime. Thus, the previous ulama's significant role had decreased and been altered as the ruling government changed (Mudzhar, 1993: 53-54).

As a *mufti* and advisory body, the MUI has produced a considerable amount of religious law from its formation until 1984. Under the leadership of Hamka (1975-1981), the MUI issued fifteen fatwas covering a range of social to scientific matters. During Syukri Ghozali's tenure (1981-1983), the MUI generated over 22 fatwas addressing various issues. Surprisingly, the MUI issued only a few fatwas after 1984, with evidence indicating that it released only two fatwas in 1987 (Mudzhar, 1993: 83-84). When Hasan Basri led it in 1983-1990, the MUI only produced three fatwas (Saat 2016: 552). Whereas, socio-religious problems emerged and required legal products from fatwa institutions to respond to them. There are two reasons behind why the MUI produced fewer fatwas after 1984. First, various parties heavily

criticised the MUI for failing to understand how to issue fatwas that were deemed unnecessary. Second, the MUI tries to avoid the inconsistency of fatwas issued by the Central MUI with the Provincial MUI or between fellow MUIs in each province in addressing the same issue. Since then, the MUI has used fatwas as the last alternative, making the *tausiyah* the most “safe” means to respond to Muslims’ problems (Mudzhar, 1993: 82–87).

Since the collapse of the Suharto regime in 1998, the MUI has undergone significant changes. This transformation was prompted by the opening of public space during the Reform era, allowing for the expression of freedom of opinion. This shift provided a moment for the internal MUI to re-evaluate its roles and functions from the New Order era (Ichwan, 2005: 46). The impact of this change is evident in the increasing number of religious laws produced by the MUI each year. For instance, during Ali Yafie’s leadership (1990-2000), the MUI issued sixteen fatwas. This figure experienced a substantial increase under the leadership of M. Sahal Mahfudz (2000-2014), who oversaw the production of 98 fatwas (Saat, 2016: 552).

The surge in the number of fatwas produced by the MUI after the New Order was not solely a result of the opening of public spaces. The MUI sought to assert its identity as an advocate for the interests of Muslims and align itself with their aspirations. Employing an Islamic reformist strategy, the MUI aimed to bring itself and Muslims closer to post-New Order orthodoxy (Ichwan, 2005: 50). Beyond mere quantity, the MUI also demonstrated the audacity to produce religious legal products that contradicted government policies. These outcomes included fatwas concerning minority religions, pluralism, and democracy. Some scholars argue that these fatwas reveal the MUI’s inclination to accommodate the interests of conservative Islamic groups, potentially being utilized by communities associated with radical groups (Ropi 2010; Sirry 2013; Nasir 2014; Schäfer 2019; Alnizar 2019; Hasyim 2020). Interestingly, during the New Order, the MUI primarily served as a platform for various Islamic community organizations, protectors of Pancasila, and supporters of government policies, issuing fatwas and guidance accordingly (Hasyim, 2015a: 489–490).

### **MUI Fatwa on Covid-19: Legal Arguments and Fatwa Methods**

The authors have identified seven fatwas issued by the MUI Fatwa Commission in 2020, all related to Covid-19. Six of these fatwas pertain to *‘ibādah* (devotional practices), while the remaining one addresses *mu‘āmalah* (human relations). Rooted in textual arguments and rational reasoning, these religious legal products utilize five fatwa methods: *qiyās* (analogy), *tafīq* (integration of multiple Islamic opinions), *takhayyur* (eclectic approach to Islam), *maqāṣid al-sharī‘ah* (goals of Islamic law), and *ṣādd al-sharī‘ah* (rejecting means leading to ugliness in Islam). The Fatwa Commission deliberated on and ratified these seven fatwas over a four-month period, from March to July 2020, with the approval of the MUI Leadership Council.

The first set of fatwas pertains to *‘ibādah*, with the Fatwa Commission issuing six fatwas in this domain. They are listed in the order of their initial publication: (1) MUI Fatwa No 14 of 2020 on Implementing *‘Ibādah* in Situations of the Covid-19 Outbreak; (2) MUI Fatwa No 17 of 2020 on Guidelines for Prayer Procedures for Health Workers Who Wear Personal Protective Equipment (PPE) When Caring for and Handling Patients; (3) Fatwa MUI No 18 of 2020 on Guidelines for the Management of Bodies of Muslims Infected with Covid-19; (4) Fatwa MUI No 28 of 2020 on Guidelines for the *Takbir* and *Eid al-Fiṭr* Prayers During the Covid-19 Pandemic; (5) MUI Fatwa No 36 of 2020 on *Eid al-Aḍḥā* Prayers and the Slaughter of Sacrificial Animals During the Covid-19 Outbreak; and (6) MUI Fatwa No 31 of 2020 on the Organization of Friday Prayers and Congregations to Prevent the Transmission of the Covid-19 Outbreak

(Indonesian Ulama Council, 2020). Among these, the authors concentrate on the first fatwa for analysis in this discussion, considering the rest as supporting fatwas that complement it.

The first fatwa is an anticipatory and proactive attitude from the MUI towards the emergence of the Covid-19 pandemic, spread massively in various countries, including Indonesia. In contrast, the remaining six fatwas are questions that arise from Muslims. In response to these new problems, on 16 March 2021, the MUI issued its first fatwa related to implementing worship when the Covid-19 outbreak occurred. The performance of worship referred to here are Friday prayers, five daily prayers in congregation (Arabic: *rawātib*), the *tarāwīḥ* (a prayer in congregation during the *Ramaḍān*) prayers, *Eid* prayers, public recitations, the *taklīm* assembly (Indonesian: *majelis taklim*), *tabligh akbar*, and funeral care (*Fatwa of the Indonesian Ulama Council No 14 of 2020*, 2020).

This fatwa stipulates that Muslims infected with Covid-19 must isolate themselves. It further directs them to replace Friday prayers with *ṣalāt al-ẓuhr* (midday prayer) and prohibits them from engaging in Muslim sunnah activities in congregations. For non-infected Muslims, two conditions apply. Firstly, they remain obligated to perform Friday prayers. Secondly, they are permitted (Arabic: *mubāh*) to engage in other worship activities involving large gatherings, provided that the spread of Covid-19 is under control or the potential for transmission is low, while adhering to health protocols. In situations where the spread of Covid-19 is uncontrolled or the potential for infection is high or very high, the regulations for non-infected individuals align with those for the infected. Additionally, the fatwa prohibits actions that may cause panic and public harm, such as hoarding masks and spreading false information. It encourages Muslims to intensify their worship and prayers, seeking protection from all potential dangers (*Fatwa of the Indonesian Ulama Council No 14 of 2020*, 2020).

The second is a fatwa on the *muāmalah*. There is only one fatwa in this field: the MUI Fatwa No 23 of 2020 on Utilising the *Zakāt*, *Infāq*, and Alms for Combating the Covid-19 Outbreak and its Impact. The legal provisions discussed in the fatwa are old issues, and the MUI has issued five fatwas related to the distribution of the *zakāt*, *infāq*, and alms. Interestingly, the MUI reproduces the fatwa and prioritises the *zakāt*, *infāq*, and alms' allocation to the benefit of the *mustahiq* (groups entitled to receive *zakāt*) affected by Covid-19. In this fatwa, the *zakāt*, *infāq*, and alms can be distributed consumptively, such as purchasing medicines, disinfectants, personal protective equipment, volunteer needs, and productive activities such as stimulation of the *mustahiq* socio-economic activities. Although most of the Sunnī laws of thought require that the object of *zakāt māll* must be completed for one year (Arabic: *ḥaul*) and recommends issuing the *zakāt fiṭrah* (types of *zakāt*) at the end of *Ramaḍān* (the ninth month in the Islamic calendar), this fatwa stipulates the opposite. This fatwa suggests that the *zakāt* be paid sooner or at the beginning of the *Ramaḍān* to overcome the impact of Covid-19 (*Fatwa of the Indonesian Ulama Council No 23 of 2020*, 2020).

The Fatwa Commission relies on textual arguments and rational reasoning as the legal basis for producing religious legal products. Textual arguments involve quoting the Qur'an, *hadīth*, and books on Islamic jurisprudence and interpretation. These arguments elucidate the general provisions of Islamic law and the opinions of scholars relevant to the points addressed in the fatwa. Rational reasoning employed by the Fatwa Commission includes Islamic legal maxims (Arabic: *qawā'id fiqhiyyah*) and expert opinions. This form of reasoning serves as a fundamental principle and a scientific explanation in determining the fatwa. Each fatwa begins with sequential quotations of verses from the Qur'an and *hadīth*, followed by Islamic legal maxims and references to books of Islamic jurisprudence or interpretations. In specific cases, such as guidelines for the worship of medical personnel and procedures for managing patients' bodies exposed to Covid-19, expert opinions also contribute to the basis of the fatwa.

In considering expert opinions as part of rational reasoning, the Fatwa Commission specifically consulted Prof. drh. Wiku Adisasmito, Chair of the Covid-19 Task Force Expert Team, and Prof. Dr. Budi Sampurno, a Professor at the Faculty of Medicine, University of Indonesia, concerning health workers and patients infected with Covid-19. Based on the insights provided by these experts, on March 26, 2021, the Fatwa Commission permitted medical personnel to combine two prayers at one time (Arabic: *jam' u al-ṣalāh*), pray using Personal Protective Equipment (PPE), replace ablution with *tayammum* (a purification ritual other than using water) under certain conditions, and pray using contaminated PPE, with the stipulation that they must repeat their prayers after work (*Fatwa of the Indonesian Ulema Council No 17 of 2020*, 2020). The following day, the Fatwa Commission established guidelines for the proper care of bodies, emphasizing adherence to health protocols while still considering sharia principles (*Fatwa of the Indonesian Ulema Council No 18 of 2020*, 2020). The alignment of fatwa arguments with medical science is evident in these religious legal products, specifically addressing the worship practices of medical personnel and the handling of corpses.

Judging from the methodological aspect, the Fatwa Commission uses the *qiyās*, *talfīq*, *takhayyur*, *maqāṣid al-sharī'ah*, and *ṣādd al-sharī'ah* methods. In MUI Fatwa No 14 of 2020, the Fatwa Commission uses three methods at once. The Fatwa Commission compares people with diarrhoea and those infected with Covid-19 (*qiyās*). According to Imam Nawawi in *al-Majmu'*, people with diarrhoea who have the potential to make mosques unclean are not obliged to pray Friday, and it is forbidden for them to pray in congregation in the mosque. The analogy is that people with diarrhoea are prohibited, let alone people infected with Covid-19, which can cause deadly diseases. Hence, the level of prohibition is higher than just having diarrhoea. For Muslims who are not infected with Covid-19, the Fatwa Commission then takes the opinion of Abdullah bin Abd al-Rahman Bāfādil al-Hadramī in *al-Muqaddimah al-Ḥadrāmiyah*. He asserted that concerns for the safety of life and property fall under the exemption for elderly individuals excused from participating in Friday prayers and congregational prayers at the mosque. These exemptions for the elderly are derived from a *hadīth* narrated by Abū Dāud (*Fatwa of the Indonesian Ulema Council No 14 of 2020*, 2020). The two scholars referenced by the Fatwa Commission in this context belong to the Shāfi'iyah school (*takhayyur*).

MUI Fatwa No. 14 of 2020 refrains from using the *talfīq* method, but this approach is employed in the fatwa concerning prayer procedures for health workers treating Covid-19 patients. When addressing whether a health worker unable to purify themselves must repeat their prayer (Arabic: *qaḍā'*) or not, the Fatwa Commission relies on textual arguments sourced from *Rauḍah al-Ṭālibīn* and *al-Mugnī*. According to Imām Shāfi'ī, prayer is permitted in conditions where purification is not possible. The question arises: should the prayer be repeated? The Shāfi'iyah school holds two opinions on this matter. It is not deemed obligatory to repeat the prayer since it does not fulfil the conditions of a valid prayer. Ibn Qudamah supports the notion that one is not obligated to repeat the prayer, citing a *hadīth* narrated by Imām Muslims about the Prophet assigning his companions the task of searching for Ayesha's necklace. Here, the Fatwa Commission employs *talfīq*, merging the opinions of two schools, namely the Ḥanbalī and Shāfi'ī law (*Fatwa of the Indonesian Ulema Council No 17 of 2020*, 2020). The amalgamation of these two *fiqh* schools reflects the dynamic nature of Islamic legal thought in the religious law products produced by the Fatwa Commission. Despite the MUI employing the *talfīq* method since the New Order, previous scholars have not universally justified this approach (Mudzhar, 1993: 92).

In utilizing these three methods, the Fatwa Commission refers to several *fiqh* books. Two mainstream Islamic organizations in Indonesia, Nahdlatul Ulama and Muhammadiyah, follow similar practices in issuing fatwas (Ali, 2020). As traditional scholars, adherence to one of the four Sunnī schools

is imperative for Nahdlatul Ulama's jurists (Ztf, 2017, p. 194). They refer to the opinions of Islamic jurists found in various classical *fiqh* books, particularly those of the Shāfi'ī school, using *qaulī* (textual) and *ilhāqī* (analogy) methods in producing fatwas (Maftuhin, 2021, p. 255). Some of them, especially Nahdlatul Ulama's younger jurists, employ *ijtihad* (independent legal reasoning) to address the challenges of modernity (Riza, 2011; Nurdin et al., 2021; Riyanta et al., 2022). In contrast to Nahdlatul Ulama, Muhammadiyah's jurists and their followers are not affiliated with a specific school of thought (*mazhab*). While some of their fatwas may refer to the opinions of scholars, they tend to interpret verses in the Quran and *hadīth*, avoiding doctrines that do not align with these two sources (Anwar, 2005, pp. 31–32; Mundzir & Muthmainnah, 2022). Besides these Islamic organizations, judges in religious courts also refer to various *fiqh* books when deciding Islamic family cases (Nawawi et al., 2022; Hakim & Nasution, 2023).

In addition, the fatwa also employs the *maqāṣid al-sharī'ah* and *ṣādd al-sharī'ah*. These two methods are evident in the two Islamic legal maxims quoted by the Fatwa Commission in their fatwas. The *maqāṣid al-sharī'ah* is encapsulated in the Islamic legal maxim, "*dar'u al-mafāsīd muqaddam alā jalbi al-maṣāliḥ*," meaning "rejecting ugliness takes precedence over seeking benefit." The *ṣādd al-sharī'ah* is contained in the Islamic legal maxim, "*tasarruf al-imām alā al-ra'īyyah manūṭ bi al-maṣlahah*," meaning "the leader's policy towards the people must be oriented to the benefit." The first Islamic legal maxim is used as rational reasoning in four out of the seven fatwas, and the second Islamic legal maxim is used as rational reasoning in six fatwas. Although the application of the two Islamic legal maxims is not explained, several provisions in the fatwa emphasize benefit and reject damage. The obligation to maintain health because it is part of the primary purpose of religion is one of the five *maqāṣid al-sharī'ah*. The prohibition of carrying out Muslim sunnah activities in a congregation and replacing Friday prayers with the *ṣalāt al-ḥuḥr* results from the *ṣādd al-sharī'ah*. In contrast to the opinions of jurisprudence scholars and previous interpretations, this citation of Islamic legal maxims does not include the source of the reference. However, some of the Islamic legal maxims used by the Fatwa Commission can be found in *al-Asybah wa al-Nazā'ir fī 'Qawā'id wa Furū'i Fiqh al-Syāfi'iyyah* (Al-Suyuthi, 1983). The use of Islamic legal maxims in issuing fatwas is not exclusive to MUI but is also practiced by Nahdlatul Ulama and Muhammadiyah (Mutakin, 2021; Maftuhin & Muflihati, 2022, pp. 359–360; Rachmadhani et al., 2022).

The legal arguments and fatwa methods employed by the Fatwa Commission in producing religious legal products during the Covid-19 pandemic indicate that the seven fatwas are open to diverse opinions. The MUI is making a concerted effort to avoid fixating solely on one school (Shāfi'iyyah) but instead aims to be inclusive of other schools and welcomes the perspectives of specific experts, particularly in the medical field. This inclusivity in religious legal products challenges the traditional stance of many Indonesian scholars who adhere strictly to a single school of thought (Hosen, 2004: 160). Consequently, the authors assert that the MUI's fatwas demonstrate a more inclusive, flexible, and progressive approach in addressing religious issues arising from social changes and scientific progress. This assessment aligns with arguments put forth by other scholars, who contend that the MUI's fatwas during the pandemic exhibit receptivity and progressiveness compared to religious law products issued before the Covid-19 pandemic, which tended to be more conservative (Sholeh, 2020; Saputera, 2020; Chaq, 2020).

### **MUI Fatwa Politics: Government Partner or Servant of Muslims?**

The MUI's fatwa politics in generating religious legal products during the Covid-19 pandemic is intriguing for the authors' analysis. Since the internal reorientation of its organization as a servant of Muslims after the New Order, the authors note that the preambles of fatwas produced by the Fatwa Commission are not based on questions or requests from the government. According to normative

provisions, the Fatwa Commission can convene a Fatwa determination meeting upon receiving requests or questions from the public or the government. Additionally, these meetings can be called when religious issues arise due to social changes or scientific and technological advances (Indonesian Ulama Council, 2015: Article 9). However, the Fatwa Commission did not adhere to this normative provision in the fatwas issued during the Covid-19 pandemic. The last six fatwas discussed in this paper were issued in response to questions from Muslims, as explicitly mentioned in the 'weighing' considerations accompanying these fatwas. An exception to this trend is observed in the first legal product produced by the Fatwa Commission during the Covid-19 pandemic. MUI Fatwa No. 14 of 2020 represents a proactive stance in anticipation of the widespread outbreak of Covid-19 in various countries, including Indonesia.

The legal products issued by the Fatwa Commission were not only produced in response to questions that arose from the Muslim community but also as a response to requests from the government. Unfortunately, the demand for a fatwa started by the government is not included in the "weighing" consideration on the seven fatwas produced by the Fatwa Commission. Not including the government's request in the preamble of its fatwa shows that the Fatwa Commission is inconsistent in applying its formulated fatwa guidelines. This inconsistency was also discovered by Jamaa (2018) after examining the fatwas produced by the MUI from 1975 to 2011.

That rulers have a role in the seven fatwas produced by the Fatwa Commission can be proven by the government's invitations and requests published in several national online media and circulars. The first fatwa responds to Indonesian President Joko Widodo's invitation to help and unite to eradicate Covid-19 (KOMPAS.com, 2020b). The MUI issued this fatwa on 15 March 2020, precisely one day after Widodo's invitation. Along with the increasing number of patients infected and dying from Covid-19 and the shortage of health workers, Vice President Ma'ruf Amin directly requested two fatwas related to prayer procedures for medical personnel who use PPE and guidelines for the management of Muslim bodies confirmed Covid-19 on 23 March 2020 (Tribunnews.com, 2021). Three and four days later, the Fatwa Commission issued the fatwas one by one, respectively. On 6 April 2020, the Minister of Religion asked for a fatwa related to guidelines for worship in the *Ramaḍān* and *Eid al-Fiṭr* (Circular of the Minister of Religion No SE.6, 2020). In response to the circular, the Fatwa Commission issued a fatwa related to the *zakāt*, *infāq*, and alms funds for handling Covid-19 and its effects on 16 April 2020, followed by a fatwa related to the *takbir* and *Eid al-Fiṭr* prayer procedures on 13 May 2020. Towards the *Eid al-Adḥā*, the Minister of Religion issued two circulars about implementing religious activities in houses of worship (Circular of the Minister of Religion No SE.15, 2020), and *Eid al-Adḥā* prayers and the slaughter of sacrificial animals (Circular of the Minister of Religion No SE.18, 2020). The Fatwa Commission then responded by issuing a fatwa regarding the holding of Friday prayers and worshipping in the congregation on 4 June 2020, procedures for the *Eid al-Adḥā* prayers and the slaughtering of sacrificial animals on 6 July 2020. In contrast to the Circular of the Minister of Religion No SE.6 of 2020, the last two circulars from the Minister of Religion did not specify their request for a fatwa to MUI. These seven fatwas have an essential role in limiting and regulating worshipping Muslims during the Covid-19 pandemic.

Different things happened compared to some of the religious legal products produced by the MUI during the New Order. In the *'ibādah*, for example, there are fatwas regarding the *mīqāt makānī* (the limit of the place to start the *iḥrām* or the intention of hajj or umrah), *mābit* (stay a while) in Mina, *mābit* in Muzdalifah, *mīqāt* hajj and umrah 1 and 2. The fatwas were requested from the Directorate General of Islamic Guidance and Hajj Affairs of the Ministry of Religion. Not only in the *'ibādah*, the Directorate General of Islamic Guidance and Hajj Affairs at the Ministry of Religion also asked for a fatwa in the *mu'āmalah*. Among them are fatwas on the *'iddah mati* (waiting time for the woman whose husband died), triple *thalāk*



(divorce), eating rabbit meat, and intensifying the implementation of hajj. The MUI also issued a fatwa related to the provision of *zakāt* for scholarships based on a request from the Minister of Education and Culture, Prof. dr. Ing. Wardiman Djojonegoro (Indonesian Ulama Council, 2020).<sup>1</sup> All religious fatwa produced by the MUI in the *'ibādah* and *mu'āmalah* included the government's request before the Reformation in each of its legal products.

Not including the government's request in consideration of its religious legal products shows that the MUI tends to prefer being recognised as a servant of the interests of Muslims rather than government partners. This tendency occurs because of the transformation of the role of the MUI institution. During the Soeharto regime, the MUI gave fatwas and advice to legitimise government policies and guard of the Pancasila (Hasyim, 2015a: 489–490). After the New Order, the MUI changed its orientation at the internal organisational level. The orientation transformation within the MUI institutional body reflects its role during the New Order and is supported by public space opening in the Reformation era (Ichwan, 2005: 46). The MUI transformed its role, borrowing Hasyim's term, from "guardian of government" (*khādim al-hukūmah*) to "guardian of Muslims" (*khādim al-'ummah*) (Hasyim, 2015b: 245).

The transformation of the MUI's role as a servant to the interests of Muslims compatible with government policies can at least end the negative stigma of most studies on the MUI recently (Sholeh, 2020). Those studies argue that religious law products produced by MUI related to minority religions, pluralism, and democracy tend to contradict government policies and lead to Islamic conservatives. The MUI uses religious legal products related to minority religions as an instrument to uphold the orthodoxy of Muslims (Burhani, 2014). It negatively impacts the violence experienced by Ahmadiyah (Alnizar, 2019) and more tense relations within the Muslim community (Ropi, 2010). Fatwa issued by the MUI regarding democracy can worsen the implementation of democracy and contribute negatively to the decline and stagnation of democracy in Indonesia (Hasyim, 2015a; Schäfer, 2019). Religious law products that do not prioritise democratic values increase Islamic conservatives in the MUI institution (Hasyim, 2020). The controversial legal product has opened a more constructive discussion space in the scientific realm, often neglected by scholars today (Sirry, 2013).

### **Contribution of MUI Fatwa in State Policy to Tackle the Spread of Covid-19**

The MUI does not explicitly include the government's request in its fatwa during the pandemic, but the provisions in the fatwa are compatible with government policies. The seven fatwas contributed positively or indirectly to government policies in tackling the spread of Covid-19. Amin confirmed this positive contribution. He stated that the government had made policies for the benefit of the people and used the MUI fatwas during the pandemic as a reference (CNN Indonesia, 2020). This contribution can be seen from several regulations issued by the state after the Fatwa Commission issued the fatwas.

Regulation of the Minister of Health (Permenkes) No 9 of 2020 on Guidelines for Large-Scale Social Restrictions (PSBB) in Accelerating the Handling of Covid-19 is proof that the MUI fatwa is used as a reference by the government in making policies. In this regulation, restrictions on religious activities are one of the six areas restricted in their activities. The Minister of Health stipulates that religious activities during the Covid-19 pandemic can only be carried out at home and attended by limited families with keeping everyone apart (Indonesian Minister of Health, 2020: Article 13). The PSBB is guided by existing government regulations and fatwas from official religious institutions recognised by the government, in

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<sup>1</sup> Fatwas produced by the MUI during the New Order can be accessed at <https://mui.or.id/fatwa>. Accessed 6 July 2021.

this case, the MUI. Thus, the restrictions on religious activities in the Permenkes only apply to locations where the spread of Covid-19 is uncontrolled, or the potential for overdrive is high or very high. Meanwhile, in situations where the transmission of Covid-19 is under control or the potential for deployment is low, religious activities are still allowed while observing health protocols. These provisions follow the MUI Fatwa No 14 of 2020.

In addition, several regulations indirectly refer to religious legal products produced by the Fatwa Commission. This matter can be proven by the Minister of Law and Human Rights Regulation, which prohibits foreign nationals from entering Indonesian territory (Indonesian Minister of Law and Human Rights, 2020). This regulation follows the first recommendation of the MUI Fatwa No 14 of 2020, which requires the state to strictly limit the entry and exit of people and goods from Indonesia in several policies. Meanwhile, the debate over the ratification of Law No 2 of 2020 on Government Regulation Replacement of Law No 1 of 2020 on State Financial Policy and Financial System Stability for Handling Covid-19 and/or in Facing Threats That Endanger the National Economy and/or Financial System Stability also pays attention to the arguments for religious legal products produced by the Fatwa Commission. Eight factions approved this Government Regulation Instead of Law to become law, except for the faction of Partai Keadilan Sejahtera. Most sections argue that the Government Regulation Instead of Law is needed to overcome the potential economic crisis because of Covid-19 (KOMPAS.com, 2020a). The MUI claims that the polemic on the ratification of the Government Regulation Instead of Law into law cannot be separated from the fatwa arguments produced by the MUI (Sholeh, 2020: 293). This regulation follows one of the Islamic legal maxims, which states that the policies made by the authorities towards the people must follow the public interest (Arabic: *tasarruf al-imām alā al-ra'iyah manūṭ bi al-maṣlahah*). This Islamic legal maxim was used as a fatwa argument by the Fatwa Commission in five of the seven fatwas issued in 2020.

Besides the government, the seven fatwas issued by the MUI during the Covid-19 pandemic show increasing public trust in its religious legal products. This matter is evidenced by Hanafi's research, which states that the Indonesian Muslim community has a positive perception and obedient attitude towards the fatwas produced by the Fatwa Commission during the Covid-19 pandemic (Hanafi, 2020). The public considers that the restrictions on religious activities in the seven MUI fatwas are a proactive and anticipatory step in spreading Covid-19 in Indonesia (Aji & Habibaty, 2020; Suyadi et al., 2020).

The contribution of MUI fatwas compatible with government policies in dealing with Covid-19 shows that the MUI is returning to its original role as a government partner. Since its establishment in 1975, several MUI fatwas have described state regulations (Hooker, 1997: 25) and justified government policies (Mudzhar, 1993: 71). After the collapse of the Suharto regime, religious law products produced by the MUI have been co-opted by Islamic conservatism and tend to be used by specific communities which are shown to have affiliations with radical groups (Ropi, 2010; Sirry, 2013; Nasir, 2014; Schäfer, 2019; Alnizar, 2019; Hasyim, 2020). However, the danger of Covid-19, which threatens human life, is changing the politics of the MUI fatwa to accommodate Muslims' interests and contribute positively to the country in tackling the spread of Covid-19. Meanwhile, the MUI fatwas received a positive response from most Muslims. Although a particular minority of the Muslim community ignores it, they finally accept it (Sukamto & Parulian, 2020).

## CONCLUSION

This study argues that the fatwa arguments and methods used by the Fatwa Commission appear to be more inclusive, flexible, and progressive towards socio-religious problems. Previously, religious law products produced by the MUI related to minority religions, pluralism, and democracy tend to contradict

government policies and lead to Islamic conservatives. This argument can be proven by the seven religious fatwas produced by the MUI, which have become a reference for the state in making policies to suppress the spread of Covid-19. The product of religious law emphasises the role of MUI as a servant of the interests of Muslims who are compatible with the state's interests in tackling the spread of Covid-19.

This research contributes to the ongoing debate surrounding the role of MUI in producing religious legal products in Indonesia. While previous research trends have often labelled the MUI as an institution inclined towards accommodating conservative Islamic interests, this study proposes a different perspective. It argues that the MUI has reverted to its original role as a mediator of government policies. The political fatwas and their contribution to combating the spread of Covid-19 illustrate that the MUI not only addresses the interests of Muslims but also makes a positive contribution to the country's efforts against the pandemic. This study serves as a crucial complement to earlier research asserting that the MUI's religious legal products essentially translate government policies. Moreover, it challenges recent studies that portray MUI religious fatwas as primarily accommodating the interests of conservative Islamic groups.

Despite all that, this study has two limitations. First, this article only examines seven fatwas produced by the Fatwa Commission, policies and circulars from the government, and news spread in national online media in 2020. Second, this article excludes other religious fatwa institutions, such as the Muhammadiyah and Nahdlatul Ulama. For this reason, further research is expected to examine all religious legal products produced by the MUI and other fatwa institutions during the Covid-19 pandemic. These two recommendations are projected to get a more comprehensive picture regarding the role of MUI as an official institution that produces religious fatwas and its contribution to tackling the spread of Covid-19 in Indonesia.

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