



Problematic Fatwa: An In-Depth Sociological Investigation of MUI's Fatwa on Supporting Palestine's Struggle

Abd. Rauf Muhammad Amin¹, Abdul Syatar¹, Achmad Abubakar¹,
Mayyadah², Islamul Haq³

¹ Universitas Islam Negeri Alauddin Makassar

² Universitas Islam Negeri Datokarama Palu

³Institut Agama Islam Negeri Parepare

Email: abdul.syatar@uin-alauddin.ac.id

Abstract

The purpose of this study is to assess and reveal the social background of the emergence, the suitability of methodology and *istidlāl*, and the problematic aspects of the Indonesian Ulema Council Fatwa Number 83 of 2023 concerning the Law of Support for the Palestinian Struggle. This research is empirical with a sociology of law approach. Data sources were obtained through MUI fatwa, interviews with a number of MUI administrators in the region, and literature study data. Data analysis through the stages of reduction, presentation, and conclusion. The research found that the social background of the fatwa arose due to questions and pressure on MUI to respond to the social reality that occurred in Palestine. In the fatwa of support for the Palestinian cause, MUI uses the *naş* approach and the *qaulī* approach. The opinions of the madhhab scholars quoted are dominated by the al-Shāfi'ī madhhab. The construct of *istidlāl* is in accordance with the fatwa methodology established by MUI. Meanwhile, the problematic dimension of the fatwa lies in the ruling of "*haram*" without explaining the criteria. Haram cannot be ruled on something that is not convincing. The reaction of intellectuals on social media, both pro and contra the fatwa, to the fatwa is an indication to question the competence and representation that MUI wants to bring. MUI did not release the list of boycotted products (at least criteria/indication), so it backfired on some of the affected products. In the future, MUI's assertiveness in issuing fatwa is still needed with language that is easier to understand.

Keywords: Problematic Fatwa, MUI, Fatwa, Supporting Palestine's Struggle

Abstrak

Tujuan penelitian ini untuk menilai dan mengungkap latar sosial kemunculan, kesesuaian metodologi dan istidlāl dan aspek problematika Fatwa Majelis Ulama Indonesia Nomor 83 Tahun 2023 tentang Hukum Dukungan Terhadap Perjuangan Palestina. Penelitian ini empirik dengan pendekatan sosiologi hukum. Sumber data diperoleh melalui fatwa MUI, wawancara dengan sejumlah pengurus MUI di daerah dan data studi kepustakaan. Analisis data melalui tahapan reduksi, penyajian dan penarikan kesimpulan. Hasil penelitian menemukan bahwa latar sosial fatwa tersebut muncul akibat pertanyaan dan desakan kepada MUI untuk memberikan respon terhadap realitas sosial yang terjadi di Palestina. Pada fatwa dukungan terhadap perjuangan Palestina, MUI menggunakan pendekatan naş dan pendekatan qaulī. Pendapat ulama mazhab yang dikutip didominasi mazhab al-Syāfi'ī. Konstruksi istidlāl sudah sesuai dengan metodologi fatwa yang ditetapkan MUI. Sementara dimensi problematik fatwa tersebut terletak pada ketetapan hukum "haram" tanpa dijelaskan kriterianya. Keharaman tidak bisa dihukumkan kepada sesuatu yang tidak meyakinkan. Reaksi para intelektual di media sosial, baik yang pro dan kontra fatwa terhadap fatwa tersebut menjadi sebuah indikasi untuk mempertanyakan kompetensi dan representasi yang ingin dibawa MUI. MUI tidak merilis daftar produk yang diboikot (minimal kriteria/indikasi) sehingga menjadi bumerang bagi beberapa produk yang terkena imbasnya. Ke depannya, ketegasan MUI dalam berfatwa masih sangat diperlukan dengan bahasa yang lebih mudah dipahami.

Kata Kunci: *Fatwa problematik, MUI, fatwa, Dukungan terhadap Perjuangan Palestina*

Introduction

Fatwas made by Indonesia's official religious institutions, such as the Indonesian Ulema Council, and other social organizations, are very important.¹ Although not legally binding, MUI's fatwas have provided moral and spiritual direction for Muslims in various aspects of their lives.² MUI itself has realized that these fatwas have become one of the most sought-after documents by academics as

¹ Ahmad Suaedy et al., "Language, Authority, and Digital Media: The Impact on the Legitimacy of Fatwas," *Ahkam: Jurnal Ilmu Syariah* 23, no. 1 (2023), p. 1–24. Muammar Bakry, et.al., "Reflections of Contemporary Islamic Law to The Spirit Doll Phenomenon; A Sadd Al-Żarī'ah Perspective," *Samarah: Jurnal Hukum Keluarga dan Hukum Islam* 6, No. 1 (2021).

² La Jamaa, "Fatwas of the Indonesian Council of Ulama and Its Contributions to the Development of Contemporary Islamic Law in Indonesia," *Indonesian Journal of Islam and Muslim Societies* 8, no. 1 (2018), p. 29–56.

an object of study and research.³ On the other hand, with the advancement of information technology, MUI's fatwas become faster and easier to access.⁴ However, this ease of access also causes MUI fatwas to be more open to quick responses and social responses that are not always positive.⁵ In addition, fatwas issued by the Indonesian Ulema Council (MUI) often cause debates on social media.⁶ One of MUI's most controversial fatwas that has garnered the most public opposition is on pluralism, liberalism, and secularism.⁷ Many figures commented on the fatwa as part of their reactions. The fatwa on the prohibition of pluralism, liberalism, and secularism even led to an attack on the Liberal Islamic Network (JIL) office by a hardline Islamic group.⁸ MUI's fatwa on Christmas also caused tension between Muslims and non-Muslims.⁹

Based on Google's trends data, the fatwa about the law of Christmas is still the most popular search, especially when Ahok's case surfaced in 2016.¹⁰ During the New Order era, MUI as a religious institution seemed to be ridden by political interests.¹¹ Some of the fatwas issued were considered part of the way to smooth out government programs at that time.¹² The new order government's intervention

³ Moh. Bahrudin, Tulus Suryanto, and Mohd Mizan Bin Mohammad Aslam, "The Implementation of Ijtihād Jamā'iy in MUI's Fatwa Commission," *Walisongo: Jurnal Penelitian Sosial Keagamaan* 28, no. 2 (2020), p. 125–44.

⁴ Yusuf Hanafi, et. al., "Indonesian Ulema Council Fatwa on Religious Activities During the COVID-19 Pandemic: An Investigation of Muslim Attitudes and Practices," *Journal of Religion and Health* 62, no. 1 (2023), p. 627–49.

⁵ Muhammad Maulana Hamzah, "Peran Dan Pengaruh Fatwa Mui Dalam Arus Transformasi Sosial Budaya Di Indonesia in Indonesia," *Millah: Jurnal Studi Agama* 17, no. 1 (2017), p. 127–54.

⁶ Muhammad Shuhufi, et.al, "Islamic Law and Social Media: Analyzing the Fatwa of Indonesian Ulama Council Regarding Interaction on Digital Platform," *Samarah: Jurnal Hukum Keluarga dan Hukum Islam* 6, No. 2 (2022), p. 823-843. Abdurrahman Dahlan, et.al., "Al-Buti's Thoughts on Maslāhah and Its Application in the Fatwa of World Fatwa Institutions," *Samarah: Jurnal Hukum Keluarga dan Hukum Islam* 7, No. 2 (2023).

⁷ Mohammad Syifa Amin Widigdo and Homaidi Hamid, "The Power of Fatwā in Indonesia: An Analysis of MUI's Controversial Fatwās," *Afkaruna* 14, no. 2 (2018), p. 146–66.

⁸ M. Hilaly Basya, "The Concept of Religious Pluralism in Indonesia: A Study of the MUI's Fatwa and the Debate among Muslim Scholars," *Indonesian Journal of Islam and Muslim Societies* 1, no. 1 (2011), p. 69–93.

⁹ Nurhadi Nurhadi, "Muslims' Participation in Christmas Celebrations: A Critical Study on the Fatwa of the Council of Indonesian Ulama," *Al-Jami'ah: Journal of Islamic Studies* 40, no. 2 (2002), p. 280–303.

¹⁰ Siti Mariyam, "Frame Berita Kasus Dugaan Penistaan Agama Ahok Di Website FPI," *Al-Munzir-Jurnal Kajian Ilmu-Ilmu Komunikasi Dan Bimbingan Islam* 14, no. 1 (2021), p. 1–22.

¹¹ Khamim, "Analysis of the Heretical Fatwa of the MUI of West Kalimantan Province No. 01/MUI-Kalimantan Barat/1/2016 on the Teachings of the Gerakan Fajar Nusantara (GAFATAR)," *Journal of Islamic Law* 1, No. 1 (2020), p. 64-82.

¹² Mohamad Atho Mudzhar, *Fatwa-Fatwa Majelis Ulama Indonesia: Sebuah Studi Tentang Pemikiran Hukum Islam Di Indonesia 1975-1988* (Jakarta: INSIST, 1993), p. 85.

in MUI was considered to affect the substance of the fatwa and made it difficult for MUI to become an independent Islamic authoritative institution.¹³

On November 13, 2023, MUI again produced a fatwa on the law of supporting the Palestinian cause.¹⁴ The fatwa emphasized that supporting the Palestinian cause is obligatory, and conversely, supporting any form of Israeli aggression is forbidden.¹⁵ MUI through its fatwa also invited the public to boycott products that are pro-Israel or Zionism. The fatwa drew sharp, cynical responses and support from several figures in Indonesia. A war of comments filled the social media pages.¹⁶ Some netizens stormed the comments column of the Instagram account of the Chairman of the MUI Fatwa Commission, Asrorun Ni'am Sholeh, who among other things urged MUI to provide a list of products that should be boycotted. Quraish Shihab also suggested that MUI should explain which products are boycotted and which are not.

As a result of MUI's fatwa, there are Muslim entrepreneurs whose products are boycotted just because their product brands are the same as American product brands.¹⁷ On the other hand, Muslim scholar Nadirsyah Hosen or commonly known as Gus Nadir through his Instagram account also criticized the fatwa. Gus Nadir stated that the fatwa is potentially problematic because it equates the degree of forbidden support for Israel with buying pro-Israel products, while MUI itself does not distinguish between the two. Not a few YouTube channels were busy broadcasting various kinds of reactions from the public and Indonesian figures after the issuance of the fatwa. The pros and cons of this MUI fatwa will be discussed comprehensively in the next sub-chapter.¹⁸

The study of MUI fatwa has been reviewed and discussed in several articles such as MUI caused controversy on its fatwa when it issued fatwa on Christmas

¹³ Ansori, "Position of Fatwa in Islamic Law: The Effectiveness of MUI, NU, and Muhammadiyah Fatwas," *Ijtihad: Jurnal Wacana Hukum Islam Dan Kemanusiaan* 22, no. 1 (2022), p. 53–71.

¹⁴ Majelis Ulama Indonesia, "Fatwa Majelis Ulama Indonesia Nomor 83 Tahun 2023 Tentang Hukum Dukungan Terhadap Perjuangan Palestina" (Jakarta: mui.or.id, 2023), <https://www.mui.or.id/public/index.php/baca/fatwa/hukum-dukungan-terhadap-perjuangan-palestina>.

¹⁵ Masyrofah Muchtar and Nahrowi Salam, "Israel's Violations of the International Agreement in Siyasa Kharijiyyah (Study of Israeli-Palestinian Peace Agreement 1993-2007)," *Ahkam: Jurnal Ilmu Syariah* 19, No. 1 (2019), p. 97-126.

¹⁶ Ita Musarrofa and Holilur Rohman, "Urf of Cyberspace: Solutions to the Problems of Islamic Law in the Digital Age," *Al-Ahkam* 33, No. 1 (2023), p. 63-88.

¹⁷ Ahmad Naufa, "Terkait Seruan MUI Boikot Produk Yang Dukung Israel, Prof Quraish Shihab: Harus Berpikir Dan Teliti!," NUonline, 2023, <https://www.nu.or.id/nasional/terkait-seruan-mui-boikot-produk-yang-dukung-israel-prof-quraish-shihab-harus-berpikir-dan-teliti-uUFyf>.

¹⁸ Maskur Rosyid and M. Nurul Irfan, "Reading Fatwas of MUI a Perspective of Maslahah Concept," *Syariah: Jurnal Hukum dan Pemikiran* 19, No. 1 (2019), p. 91-117. Hudzaifah Achmad, et.al., "Analysis on Fatwa of Majelis Permusyawaratan Ulama Aceh (MPU) on Against Prohibition of PUBG: A Legal View Based on Maslahah and Mafsadah," *Jurnal Ilmiah Islam Futura* 20, No. 2 (2020).

and fatwa on pluralism, liberalism, and secularism.¹⁹ MUI rejected the use of the term pluralism because it was born in the West which is non-Islamic. MUI prefers the term plurality.²⁰ MUI also positioned its authority as a semi-non-governmental organization by issuing a fatwa rejecting Ahmadiyah.²¹ Mixed comments on the legal provisions of MUI Fatwa No. 24/2017 on guidelines for naming through social media also emerged. Some argue that the fatwa provides many restrictions that can be considered as an attempt to limit freedom of speech and opinion on social media.²² MUI's fatwa on worship during the Covid-19 pandemic has caused different responses from the community, especially in two patterns; accepting and rejecting.²³ The fatwa issued by MUI is also inseparable from two methods, namely bayānī which comes from the existence of the Qur'an and Sunnah, and burhānī which relies on rational-empirical arguments.²⁴

Some of these studies respond to problematic fatwas produced by MUI. However, they have not reviewed the aspects of the emergence, the suitability of the methodology and *istidlāl*, and the problematic aspects of the Indonesian Ulema Council Fatwa Number 83 of 2023 concerning the Law of Supporting the Palestinian Struggle.²⁵

This research is qualitative using a sociology of law approach. Data sources were obtained through MUI fatwa No. 83 of 2023 concerning the Law of Support for the Palestinian Struggle, and interviews with a number of MUI administrators in regions such as MUI of South Sulawesi Province and MUI of Southeast Sulawesi Province. and literature study data. Data analysis through the stages of reduction, presentation, and conclusion drawing.

¹⁹ Mun'im Sirry, "Fatwas and Their Controversy : The Case of the Council of Indonesian Ulama (MUI)," *Journal of Southeast Asian Studies* 44, no. 1 (2013), p. 100–117.

²⁰ Syafiq Hasyim, "Religious Pluralism Revisited: Discursive Patterns of the Ulama Fatwa in Indonesia and Malaysia," *Studia Islamika* 26, no. 3 (2019), p. 475–509.

²¹ Fariz Alnizar, et.al., "Following the Global Rejection: The Motives of Majelis Ulama Indonesia's Fatwas on Ahmadiyah," *Studia Islamika* 29, no. 3 (2023), p. 519–46.

²² Danil Putra Arisandy, Asmuni Asmuni, and Muhammad Syukri Albani Nasution, "The Majelis Ulama's Fatwa on Freedom of Expression on Social Media: The Perspective of Maqashid Sharia," *Al-Istinbath : Jurnal Hukum Islam* 7, no. 2 (2022), p. 467–86.

²³ Riyanta, et. al., "The Dynamic of Worship and Responses of Nahdlatul Ulama Members in Bantul , Yogyakarta , Toward the Indonesian Council of Ulama ' s Fatwa on the Worship During the Covid-19 Pandemic" *Al-Ihkam: Jurnal Hukum Dan Pranata Sosial* 17, no. 1 (2022), p. 136–64.

²⁴ Zainul Mun'im, "The Epistemology of MUI's Fatwas on Covid-19: Bayani and Burhani Eclecticism," *Al-Istinbath: Jurnal Hukum Islam* 7, no. 1 (2022), p. 1–20.

²⁵ Doli Witro, "State Islamic University Students' Perceptions of Israel Affiliated Products: A Study After the Fatwa of Indonesian Ulema Council No. 83 of 2023 Concerning the Law on Support for the Palestinian Struggle," *Al-Manahij: Jurnal Kajian Hukum Islam* 18, No. 1 (2024), p. 145-160.

Social Background of the Emergence of MUI Fatwa on the Law of Supporting the Palestinian Struggle

The Indonesian Ulema Council (MUI) is a non-governmental organization that facilitates ulama, zu'ama and ulama in Indonesia to guide, develop and protect Muslims throughout Indonesia. MUI is an institution that is considered to have the right to issue decisions (fatwa) regarding Islamic legal issues in Indonesia. However, the emergence of the MUI as a fatwa institution during the New Order era was considered a religious justification for various government policies related to religion. So, it is not surprising that at its inception the MUI was not considered an institution that represents and serves Muslims. Even MUI decisions or fatwas are sometimes questioned for several reasons which are not in line with government policy from a socio-political aspect. At this point, socio-political factors can influence the content of the MUI fatwa, not just based on legal considerations.²⁶

Fatwa comes from the words *al-fatwa* or *al-futya*, which is an answer to an (impossible) problem in the legal field. Thus, fatwa in this sense is defined as providing an explanation (*al-ibanah*). It is said *al-fath fi al-amr* because it means giving an explanation or providing an answer to the problem being faced, the field of requesting a fatwa is a legal matter. The person who asks for a fatwa is called a *mustafti*, while the person who gives the answer is called a *mufti*. So, it can be understood that the elements of a fatwa contain: *mustafti*, *mufti*, *al-ifta* and *fatāwa*. Fatwa can significantly eliminate the problems faced in fiqh issues, by showing the truth and its arguments. Fatwa can function to explain sharia law regarding these issues as answers to questions asked by fatwa applicants (*mustafti*'), both individually and collectively.²⁷

From these definitions, two important things can be understood: First, responsive fatwa, namely a legal response (legal opinion) issued after a question or request for a fatwa arises (based on request). Generally, fatwas are issued in response to questions and are problems that have occurred or are real. The fatwa giver (*mufti*) may refuse to give a fatwa on questions that have not yet occurred. However, a *mufti* is still encouraged to answer this question. Secondly, from the aspect of the power of law, the fatwa as a legal answer is not confining. In other words, the person who requested a fatwa (*mustafti*), whether an individual, an institution, or a society should not recognize the contents or laws given to him. This is because the fatwa is not confining as the verdict of the court (*qada*').²⁸

²⁶ Khozainul Ulum, "Fatwa-Fatwa Majelis Ulama Indonesia (MUI) Dalam Pemikiran Hukum Islam Di Indonesia," *Jurnal Akademika* 8, 2 (2014), p. 66-17. Alfitri Alfitri, "Bureaucratizing Fatwā in Indonesia: The Council of Indonesian Ulama and Its Quasi-Legislative Power," *Ulumuna: Journal of Islamic Studies* 24, No. 2 (2020).

²⁷ Muhammad Shuhufi, et.al., "Islamic Law and Social Media, p. 828.

²⁸ Muhammad Shuhufi, et.al., "Islamic Law and Social Media, p. 829

In the context of MUI's fatwa on the Law of Supporting the Palestinian Struggle, there are four main considerations for MUI to issue the fatwa. First, the Israeli aggression and annexation of Palestine have caused countless casualties, injuries, thousands of displaced people, and the destruction of houses, buildings, and public facilities. Secondly, that support for Palestine has been carried out by many parties, some of which send labor and weapons, some of which raise finances for the Palestinian cause, some of which support morally with prayers offered as a form of humanitarian solidarity and the realization of *ukhuwah Islamiyah* and *ukhuwah insaniyah*. Third, against the Israeli aggression against the Palestinians, there are also those who support both directly and indirectly, such as arms and personnel assistance to Israel, financial assistance to companies affiliated with Israel and Zionism, building public opinion in favor of Zionism, to buying products that clearly support Israeli aggression and Zionism. Fourthly, the above phenomenon raises questions about the law of supporting the Palestinian cause.

In fact, MUI further explained that the background of the issuance of the fatwa in support of the Palestinian cause arose from public questions about the attitude of Muslims. Muslims are questioning the attitude of seeing the phenomenon of the Palestinian struggle for independence against Israeli aggression and colonialism, including the law of paying and utilizing zakat for Palestine. As for Israel's aggression and genocide against the Palestinians, there are also those who support both directly and indirectly such as arms and personnel assistance to Israel, financial assistance to companies affiliated with Israel and Zionism, building public opinion that supports Zionism, and buying products that clearly support Israeli aggression and Zionism.

MUI fatwa is a decision or legal opinion issued by MUI as an authoritative institution in religious matters in Indonesia.²⁹ MUI fatwa can appear as a response to social, political, economic, and cultural developments in society.³⁰ The social landscape of the emergence of MUI fatwa can be influenced by several factors. Social change factors can be used as the emergence of MUI fatwa. The emergence of controversial issues, technological developments or changes in social norms. When controversial issues related to Islamic principles arise, MUI can issue a fatwa to provide guidance on Islamic law related to the issue.

Fatwa can arise because of a request from the person asking for fatwa (*mustaftī*) so that MUI can be mandated or asked for its opinion by the government, community organizations, or the general public with certain issues.³¹ Fatwa is then issued as a result of the study and consultation of the scholars. Political influence

²⁹ Iswahyudi, "MUI dan Nalar Fatwa-fatwa Eksklusif," *Al-Ihkam: Jurnal Hukum dan Pranata Sosial* 11, No. 2 (2016), p. 361-391.

³⁰ Faridatus Syuhadak, "Urgensi Fatwa dalam Perkembangan Hukum Islam," *De jure: Jurnal Hukum dan Syar'iah* 5, No. 2 (2013), p. 189-196.

³¹ Radatilla and Siti Aisyah, "Islamic Law and Positive Law in Indonesia 's Transgender Behavior ," *Mazahibuna: Jurnal Perbandingan Mazhab* 3, no. 2 (2021).

also contributes to MUI issuing fatwas, either directly or indirectly.³² This political influence can come from the government's efforts to gain support or build consensus with religious groups. Another factor is the public demand for an issue. MUI responds by issuing fatwa to provide guidance or legal views. MUI fatwa can also appear as an effort to clarify or provide a better understanding of the teachings of Islam.

The substance of MUI fatwa is a legal opinion given by scholars gathered in an authoritative institution to a person or community who asks questions regarding the law of the case they are experiencing without binding.³³ The existence of a fatwa is important to state because often fatwa is often paired with the term *fiqh*, *ijtihad*, or Islamic law.³⁴ Fatwa is a substance that *fiqh*, *ijtihad*, and law do not have. One thing that characterizes fatwas is that they are casuistic while others are normative. Consequently, the fatwa institution when issuing a fatwa must understand the type of case submitted by *mustafī* (the person asking the question), not even just the type of case but the characteristics that surround the occurrence of the case, including who is the perpetrator of the case, when the case occurred, and where he did it, under what conditions he did it, what his motivation was and what the implications of the fatwa were. From this, it is understood that a fatwa is not binding on anyone other than the person asking the question. In fact, the questioner is not bound by the legal opinion of the scholar he asks, but he is given the religious right to ask other scholars who he considers more credible and reliable if he feels that he is harmed by the first fatwa.

Istidlāl Construct of MUI Fatwa on Supporting the Palestinian Struggle

The stipulation of MUI fatwa No. 83 of 2023 on the law of supporting the Palestinian cause is based on the Qur'anic texts, Hadith, and *fiqh* rules. The verses of the Qur'an that are used as the basis for the fatwa are verses that explain about the prohibition of doing damage even in war conditions (QS. al-Baqarah/2: 11, QS. al-Baqarah/2: 193, and QS. al-A'raf/7: 56), the prohibition of killing fellow humans (QS. Al-Isra'/17: 33, QS. Al-Nisa/4: 93, QS. al-Maidah/5: 32), the permissibility of fighting against those who expel or invade (QS. al-Hajj/22: 40), the necessity of mutual assistance and human solidarity (QS. al-Maidh/5: 2 and QS. al-Baqarah/2: 177), and the verse about the permissibility of zakat distribution to war victims (QS. al-Taubah/9: 47).

³² Abdi Wijaya, "Daya Serap Lembaga-Lembaga Fatwa Terhadap Masalah-Masalah Hukum Kontemporer; Studi Komparatif Lembaga Fatwa MUI, Majelis Tarjih Muhammadiyah Dan Bahtsul Masail NU," *Mazahibuna* 1, no. 2 (2019).

³³ Farid Wajdi, "The Role of the Indonesian Ulema Council as the Giver of Fatwa," *Injects: International Journal of Economic, Technology and Social Sciences* 2, no. 2 (2021), p. 592–610.

³⁴ Andi Darna, "Perkembangan Hukum Islam Di Indonesia: Konsep Fiqih Sosial Dan Implementasinya Dalam Hukum Keluarga," *El-Usrah: Jurnal Hukum Keluarga* 4, no. 1 (2021), p. 90–107.

The hadiths attached by MUI in the dictum of its fatwa are mostly sahih hadiths narrated by Bukhari and Muslim whose themes are not much different from the Qur'anic verses on which the fatwa is based. In addition to sahih traditions, MUI also cites *dha'if* traditions, among others, concerning the prohibition of doing damage on earth in the context of war, as follows:

وعن ابن عباس - رضي الله عنه - قال: كان رسول الله - صلى الله عليه وسلم - إِذَا بَعَثَ جُيُوشَهُ قَالَ: اخْرُجُوا بِسْمِ اللَّهِ، تُقَاتِلُونَ فِي سَبِيلِ اللَّهِ مَنْ كَفَرَ بِاللَّهِ، لَا تَغْدِرُوا، وَلَا تَغْلُوا، وَلَا تُمَيِّتُوا، وَلَا تَقْتُلُوا الْوُلْدَانَ، وَلَا أَصْحَابَ الصَّوَامِعِ. (رواه أحمد).³⁵

Meaning: "Ibn 'Abbas said: The Messenger of Allah used to say when he sent out his troops: "Go out in the name of Allah, you are fighting in the cause of Allah against those who disbelieve in Allah, so do not commit treason, do not steal booty, do not commit mutilation, do not kill children, and do not kill those who are in churches or places of worship." (HR. Ahmad).

Based on its chain of transmission, the Hadīth is classified as a *da'if Hadīth*, but because there are many other Hadīth narratives that are similar to it, its status has changed to *hasan li gairih*. The prohibition expressed by the Messenger of Allah in the Hadīth narrated by Ahmad is also generally recognized in the Sahih Hadith narrated by Muslim.³⁶

Procedurally, MUI fatwas must follow the guidelines for determining fatwas which include four standards, namely first, fatwa decisions must be based on the Qur'an and mu'tabar Hadith,³⁷ and do not conflict with the public interest. Second, if there is no evidence from the Qur'an and Hadith, then the fatwa should not conflict with *ijmā'*, valid *qiyās*, and other legal arguments such as *istihsān*, *maṣlahah mursalah*, and *sadd zarī'ah*.³⁸ Third, as much as possible MUI refers to the opinions of the imams of the madhhab along with their arguments and methods of determining the law. Fourth, MUI always involves experts in the field of issues that will be determined by fatwa.³⁹

³⁵ Ahmad bin Hanbal, (Ed. Syu'aib al-Arnauth), *al-Musnad*, Juz 4, Hadis nomor 2728, (Beirut: Mu'assasah al-Risalah, 1995), p. 461.

³⁶ Muslim bin Hajjaj al-Nisaburi, *Sahih Muslim*, Hadis Nomor 1731, Kitab Jihad dan Sirah (Arab Saudi: Dar al-Afkar Al-Dauliyah, 1998), p. 720.

³⁷ Ibnu Elmi AS Pelu, "Kedudukan Fatwa Dalam Konstruksi Hukum Islam," *El-Mashlahah* 9, No. 2, (2019). Mohamad Anton Athoillah, et.al., "The Historicity of the Economic Verses on Fatwa of DSN-MUI about Sharia Electronic Money," *Jurnal Ilmiah Peuradeun* 9, No. 1 (2021).

³⁸ Abdul Syatar, et. al., "The Development of Fatwas Based on Local Wisdom to the National Level: A Case Study of Panaik Money Fatwa," *El-Mashlahah* 13, no. 2 (2023), p. 133–50.

³⁹ Pedoman Penetapan Fatwa MUI berdasarkan SK Dewan Pimpinan MUI No. U-596/MUI/X/1997 tanggal 2 Oktober 1997.

The inclusion of fiqh rules seems to be part of the *istidlāl* fatwa based on *al-maṣlahah*, if it refers to the first standard of fatwa guidelines. Some scholars of Usul Fiqh indeed classify the rules of benefit as part of the evidence (material object) outside the Qur'an and Hadith.⁴⁰ Therefore, to strengthen the law of the fatwa on support for the Palestinian cause, MUI did not fail to elaborate on several fiqh rules, including one of the rules of *kuliyyah al-khamsah* (the five main rules): *al-dararu yuzāl* (favours must be eliminated), and two branch rules related to the principles and implementation of benefits.

In the fatwa to support the Palestinian cause, MUI uses the *naṣ* approach and the *qaulī* approach. The opinions of scholars of the madhhabs quoted are dominated by the al-Shafi'iyah madhhab. Basically, there are three methodological approaches used by MUI in issuing fatwas, namely the *nash qath'i* approach, the *qauli* approach, and the *manhaji* approach.⁴¹ The *naṣ qat'i* approach is carried out by referring to the Qur'an and Hadith as the main source of determining Islamic law. The *qaulī* approach is a method of determining fatwas by tracing the opinions (*qaul*) of scholars in standard fiqh books. Finally, the *manhaji* approach is the use of other methods recognized by scholars as valid methods.⁴²

Through an interview with the Secretary of the Fatwa Commission of the MUI of South Sulawesi Province, Syamsul Bahri⁴³ explained that the method of *istidlāl* is appropriate and good, even though the main *illat* aspect is conditioned by boycotts or strong protests. It's just that it needs strengthening from the jihadist argument of the principle of *amar ma'rūf*.

The Problematic Dimension of MUI's Fatwa on Supporting the Palestinian Struggle

Essentially, MUI's fatwa on supporting the Palestinian cause is undeniably needed and awaited by the people. Although substantially some things need to be criticized from the fatwa. Generalizing the fatwa from the remark, there is a very valuable lesson that how the effort to generalize legal arguments on all legal issues is not effective and credible in terms of grounding religious goals. Knowledge of propositions only reflects half of the fatwa process. Fatwas must come from questions, must come from cases. Fatwa theory says that two similar cases do not necessarily have to be given the same law, because each case has very specific characteristics. It is from this perspective that it needs to be socialized that only knowledge of the case determines the type or quality of the law or fatwa, not the

⁴⁰ Umar Muhaimin, "Metode Istidlal dan Istishab (Formulasi Metodologi Ijtihad)", *Yudisia* 8, No. 2 (2017), p. 332.

⁴¹ Irma Suryani, "Metode Fatwa Majelis Ulama Indonesia," *Juris: Jurnal Ilmiah Syariah* 9, No. 2, (2010), p. 175-184.

⁴² Asrorun Ni'am Sholeh, *Metodologi Penetapan Fatwa MUI: Penggunaan Prinsip Pencegahan dalam Fatwa* (Jakarta: Erlangga, 2016), h. 129.

⁴³ Interview with Dr. Syamsul Bahri, the Secretary of the Fatwa Commission of the MUI of South Sulawesi Province, November 20, 2023.

legal argument. The legal argument is tasked with directing us to know the legal message from the source of law, namely Allah.

The problematic dynamics begin with the fatwa dictum "*haram either directly or indirectly*" without explaining the criteria. This narrative raises the follow-up question Supporting indirectly is like what? Haram cannot be punished for something that is not convincing.

Another dynamic is the reaction of intellectuals on social media, both pro and contra the fatwa, to the fatwa, which is an indication to question the competence and representation that MUI wants to bring. It reminds the public of MUI fatwa that caused controversy on its fatwas when it issued fatwa on Christmas and fatwa on pluralism, liberalism, and secularism.⁴⁴ Not to mention the reply comment from the Chairman of MUI who discussed that the fatwa is a medicine for those who support it. However, MUI issued an unusual "*syarah*" of the fatwa that the meaning of haram is to provide any form of support for Israeli or Palestinian aggression or parties that support Israel, either directly or indirectly.

Another problem is that MUI does not release a list of boycotted products (at least criteria/indications) so it backfires on several affected products. The MUI's language in the fatwa needs to be criticized (MUI's recommendation: avoid products affiliated with Israel, colonialism, and Zionism). On the other hand, MUI is an authoritative state institution that issues halal product certification.

In an interview with the Chair of the Kendari City MUI Fatwa Commission, Ahmad explained that the fatwa was substantive because the fatwa came from questions from the public and looked at the real conditions that were developing.⁴⁵ The fatwa is in accordance with the methodology determined by the MUI. Starting from the arguments of the text, the rules of jurisprudence, and the opinions of ulama. In fact, the provisions in the legal provisions point can be binding while the recommendations section supports the previous point.

The MUI fatwa can be said to be the result of *ijtihad* and consensus as well as the configuration of the formulation of Islamic law and social change in Indonesia. Social changes often cause friction in society. Islam as a universal religion with specific guidelines based on the Koran and hadith requires the role of ulama to translate socio-cultural transformations in the form of fatwas. A fatwa is an appeal from a group of clerics and sometimes a particular cleric's appeal to the wider community or a particular community. The results of ulama fatwas in Indonesia are expressed nationally in the form of MUI (Indonesian Ulema Council) fatwas. History since the founding of the MUI until now, there have been many MUI fatwas and advice as products of Islamic legal thought which have been

⁴⁴ Sirry, "Fatwas and Their Controversy: The Case of the Council of Indonesian Ulama (MUI)."

⁴⁵ Interview with Ahmad, Chair of the Kendari City MUI Fatwa Commission, November 25, 2023.

absorbed in various statutory regulations.⁴⁶ MUI fatwas in Indonesia have an influence on socio-cultural changes and even state political dynamics. Even though the legal position of fatwas is not binding, some of their influences are quite significant, such as community involvement in family planning programs, development of sharia finance, and corrections to the ummah's creed, including the issue of the Palestinian struggle.

Conclusion

The social background of the fatwa emerged as a result of questions and pressure on the MUI to provide a response to the social reality that occurred in Palestine. In fatwa support for the Palestinian struggle, MUI uses a *naş* approach and a *qaulī* approach. The opinions of the school of thought scholars quoted are dominated by the al-Shāfiī school of thought. The *istidlāl* construct is in accordance with the fatwa methodology established by the MUI. Meanwhile, the problematic dimension of the fatwa lies in the legal provisions that are "haram" without explaining the criteria. Prohibition cannot be punished for something that is not convincing. The reactions of intellectuals on social media, both for and against the fatwa, are an indication of questioning the competence and representation that the MUI wants to bring. MUI did not release a list of boycotted products (at least criteria/indications) so it backfired on several affected products. In the future, MUI's firmness in giving fatwas is still very necessary in language that is easier to understand. MUI fatwa products are still very much needed to provide legal explanations to the people.

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