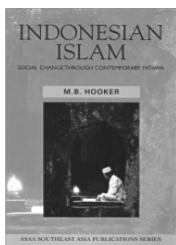


EXERCIZING *IJTIHAD* *Fatwa* and *Iftha'* in Indonesia Today

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Book Review



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The author attempts to analyse the application of Islamic law or shari'ah in contemporary Indonesia through contemporary *fatwa* (pl. *fatawa* or *fatwas*) issued by several Muslim organizations such as Muhammadiyah, Persatuan Islam (Persis/Union of Islam), Nahdlatul Ulama (NU/the Awakening of 'Ulama') and Majelis Ulama Indonesia (MUI/the Indonesian Council of 'Ulama'). The analysis of *fatwa* is oriented to both methods and products. Although a *fatwa* is a non-binding legal opinion, it has an important role for the Muslim community in Indonesia. While a *fatwa* defines what is Islamic and not, it provides identity and security for Muslims. The author argues that a *fatwa* is the last bastion of shari'ah in Indonesia in the midst of the minimal recognition of other forms of shari'ah by the secular government of Indonesia.

The author begins his discussion by providing the historical and intellectual context for the *fatwas*. The author locates the position and the development of Islamic law in the Islamic world in the nineteenth

and twentieth century, especially in al-Azhar of Egypt, the heartland of the Islamic intellectual tradition. The author argues that western intellectualism had influenced the Islamic intellectual tradition through the strengthening of the position of reason over revelation, exemplified by the acceptance of natural law concept by prominent figures such as Muhammad `Abduh and his successors. The implication was so great that the methods of *ijtihad* were relaxed.

The author then turns to the case of Indonesia and argues that the nature of Islam in Indonesia is more spiritualistic - through the promotion of *tasawwuf* or Sufism - than legalistic. The Islamic legal aspect was later developed through the domination of Shafi'i school of law. However, the acceptance of Islam did not result in the demise of local pre-Islamic traditions in the forms of law, custom and spiritual beliefs. The presence of the Dutch in the archipelago, especially from the eighteenth century onward, put aside the Islamic legal tradition in favor of pre-Islamic customs as a result of the tireless Indonesian Muslims' resistance to the Dutch colonialism. Only small concession was granted to Islam as a king of lip service. In the early twentieth century, the internal dynamic of Indonesian Muslims was marked by the establishment of several Islamic organizations with their own methodology in response to the existing situation such as Muhammadiyah in 1912, Persis in 1923, and NU in 1926.

The author observes the marginal position of Muslims vis-à-vis nationalist secular groups in the Netherlands East Indies on the eve of Indonesian independence. This marginal position persisted in post-war Indonesia. Indonesia later turned out to be a secular state with only a trivial place for Islam. Concessions were made through the creation of the Ministry of Religious Affairs in 1946 with minimal managerial authority in *haji*, Islamic school, and religious courts.

In Chapter One, the author discusses the methodology of several Islamic institutions in issuing *fatwas* and certain issues related to the definition of being a Muslim in Indonesia. Persis is criticized as relying too literally on textual sources, the Qur'an and the Sunna. It develops legal reasoning characteristically unable to uncover what is on the ground. As a result, the *fatwas* it produces are not as realistic as they should be. Although performing *ijtihad* in formulating *fatwa*, Muhammadiyah is perceived as contextualizing the *fatwa* with ideological reform and purification. The Qur'an and the Sunna remain the primary sources for Muhammadiyah's *fatwa*. Muhammadiyah

eclectically employs methods of different schools of law, however, in addition to its methods of deducting legal products from those sources, including *maqasid al-shari'ah*, *maslahah mursalah* and *istihsan*, which involve contexts as an analytical framework. It is for this reason, the author argues, that the context and the method Muhammadiyah exploits are at risk of inconsistency.

Unlike Persis and Muhammadiyah, NU is discerned as heavily depending on jurisprudences of medieval jurists, an intellectual tradition commonly referred to as *taqlid*, with specific reference to *Shafi'i madhhab*. Perceived more as a traditionalist organization, NU, in the eyes of the author, has also exercised *ijtihad*, however, especially since 1992. The author argues that this dynamic of NU in legal reasoning emerged as a result of its unproductive political ventures in national politics.

In the case of MUI, the author argues that although the New Order Government created this body to control public expressions of Islam, its independence in issuing *fatwa* appeared to be quite strong. As an “institutional umbrella” for several Muslim organizations, MUI, according to the author, combines *ijtihad* and *taqlid* as a method for issuing *fatwas*. This combination is clear even though a heavier emphasis on the former is also obvious.

The rest of the book deals with the materials and contents of the *fatwas*. The author engages in the *fatwas* produced by these four Muslim organizations in topical manner. By doing so, the author discusses points of similarity and divergence among the *fatwa* bodies. In this context, the author divides the *fatwas* into five categories: Islamic doctrines, Islamic religious rituals, women's issues, Islam and medical science, and offences against religion. In addition, special features and trends underlying those *fatwas* are also considered, including, for instance, the intrusive role of the state in certain aspects of Islamic teachings such as the *hajj* and family planning.

The author concludes the discussion of the book with some key points. The most important one is that the boundaries of *ijtihad* are not as clear today as they once were because *taqlid* is exercised in a creative way. As a result, the dichotomous classification of Indonesian Muslims as traditional-modern or conservative-progressive or moderate-fundamentalist becomes insignificant. In addition, as a product of Islamic law, *fatwa* remains important for Indonesian

Muslims, representing shari'ah in this, the world's largest Muslim nation.

There are at least three key issues that need further examination. Had the author engaged with these, this book would have been more revealing. The three key issues are the context of the bodies issuing *fatwa*, the treatment of data, and the intellectual dynamic of younger Indonesian Muslim scholars, which signifies the shift of attitude toward shari'ah and Islam in general.

Regarding the first issue, the author fails to discuss the relationship between the local customs of Indonesia (or unorthodox practices) and the four respective Muslim organizations. He clearly identifies, though, that the *fatwas* of Persis are rigid and offensive towards indigenous practices. Likewise, the *fatwas* produced by Muhammadiyah also show a similar character. In contrast, the *fatwas* by NU tend to accommodate those unorthodox practices. It would be more enlightening if the author explained why such varied tendencies occur.

Ijtihad, like *taqlid*, is one rationale and not the most decisive one. In fact, the *ijtihad* procedure may arrive at any result; either favorable to indigenous culture or otherwise. The author unfortunately does not reveal the flexibility of *taqlid* as a method of issuing a *fatwa*. The jurisprudential materials the 'ulama' rely on in their *taqlid* activities, in fact, provide alternatives with, in many cases, more than one single answer. Usually, the 'ulama' practicing *taqlid* issue a *fatwa* as an answer to a certain issue, feeling that it is less at odds with popular practices.

Since the *ijtihad-taqlid* discourse does not provide explanation of different attitudes of such Muslim organizations toward local customs and unorthodox practices, the answer must lie somewhere else. With special reference to NU, this organization still upholds the classical tradition of orthodox Islam following the character of long historical compromise of Sunnism. In short, the religious doctrines of NU are founded on three layers, legal (that is *taqlid* and *madhhab*), spiritual (that is Sufism and *tariqah*) and theological (based on the teachings of Ash'ari and Maturidi). Any legal product must uphold this basis. In relation to local customs and beliefs, for example, NU leaders as well as followers see themselves as the successors of the legendary nine preachers of Java (Wali Songo). Although the authenticity of Wali Songo as historical figures remains debatable, it is widely accepted by NU leaders and followers that the success of Wali Songo in their

missionary activities in Java was mainly based on their acceptance and accommodation of local customs and beliefs into the body of Islamic teachings.

This point is in sharp contrast with Persis, Muhammadiyah and even MUI. The first two clearly define themselves as puritanical Islamic groups whose aim is to bring about “authentic Islam” in Indonesia. Therefore, they reject *taqlid*, *madhhab*, Sufism, *tariqah*, and local customs all together. They simply state that those practices are not sanctioned in the Qur’an and not taught by the Prophet Muhammad. Therefore, such practices are considered innovative and hence heretical and should be removed from Islamic teachings and doctrines.

In his handling of data, the author fails to discern the dynamic within each Muslim organisation in Indonesia. Considering its position as a textual study with *fatwas* and related materials as the primary data, the work’s reliance on those data without corroboration is misleading. This is mainly because the methodological validity is not examined sufficiently. In Indonesia, what is written and documented does not always correspond to what really happens on the ground. An example of this is the trend of *ijtihad* practices within NU after the 1992 decision. The reality does not support the author’s assumption. The decision was somewhat regretted by the majority of senior ‘ulama’ within NU. They refused to apply the new procedure in issuing *fatwas*.

The question that may arise is why such a decision was issued by NU in the first place. The most likely answer was the fact that the younger generation of this organization at that time had already passed the phase of traditional conservative thought. Certain NU intellectuals who happened to be graduates of IAIN such as Masdar Farid Mas’udi and Malik Madany pushed forward a shift in the intellectual paradigm. The activity of these younger ‘ulama’ was patronized by Abdurrahman Wahid, the chairman of the executive board of NU at that time. Their main concern was to eliminate the gap between *fatwas* prescription and the actual problems of the NU members. *Fatwas* often created more problems, instead of providing solutions. These ‘ulama’ came to the conclusion that greater liberty in methodological appropriation was necessary. At the same time, utilitarian approaches should be undertaken in producing solution-oriented *fatwas*. *Fatwa* for them should empower the people rather than giving them a heavier burden

The discussion of data collection leads us to the third issue of intellectual dynamic of Indonesian Muslims. Unfortunately the author does not discuss the intellectual dynamic within each Islamic organization. In the Muhammadiyah circle, for instance, younger intellectuals such as Abdul Munir Mul Khan and Muslim Abdurrahman have shifted to be more accommodative toward local traditions and practices compared to Muhammadiyah's primary religious standpoints. Likewise, NU has moved towards *ijtihad* mechanism, although with qualification. It is very likely that the diminishing gaps among the bodies issuing *fatwa*, which the author recognises in recent years, are a consequence of this intellectual dynamic, especially within the younger generation. Issues which in the past were points of difference, such as *ijtihad* and *taglid*, tributes for the dead, and local tradition, are now no longer divisive issues in the hands of these young Muslim intellectuals. Admittedly, Islamic higher institutions, such as IAIN, provide meeting points for different ideas of 'ulama' from Muhammadiyah, Persis, and NU.

An evaluation of the overall contribution of the book shows that it provides more than expected. This is a rare piece of work by a non-Indonesian scholar that discusses *fatwas* produced and consumed by Indonesian Muslims. The coverage of the work is also overreaching, although the author selectively discusses the *fatwas* according to his own interpretation. Existing works on related matters have been conducted by Indonesian Muslims, but they usually discuss *fatwas* produced by a certain Islamic bodies with dubious objectivity because the authors are often affiliated to the respective bodies.

Admittedly, this is a work of very comprehensive scholarship. The author establishes the connection of *fatwas* to underlying issues, political, social, historical, legal, and intellectual. After reading this book the reader will be very well informed about different Muslim groups in Indonesia and their approaches in understanding shari'ah. Moreover, the material is relatively new, with the exception of an inconsiderable number of out-dated *fatwas*. The fact that this book is written in English (an Indonesian translation is now available) will make it easier for anyone to learn about Indonesian Islam in more a substantive manner.[]