

THE CONSTRUCTION OF EPISTEMOLOGY OF FATWA ON SOCIAL INTERACTION THROUGH SOCIAL MEDIA IN INDONESIA

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Abstract

This study intends to identify the Islamic legal approach in determining the fatwa of the Indonesian Ulema Council Number 24 of 2017 concerning Law and Social Interaction in Social Media. This literature research is a type of philosophical normative research using an Islamic legal system approach. The results of the study conclude that the determination of the MUI fatwa on laws and guidelines for social interaction through social media uses a holistic approach to Islamic law. This major conclusion can be seen from various characteristics which is: *First*, the overall character (wholeness) and multidimensionality in the form of the use of universal textual arguments ('*aam*). *Second*, the character of purpose in the form of the use of various fiqh rules that emphasize the realization of benefit as the basis as well as the orientation of legal determination. *Third*, the cognitive character is the use of several classical *fiqh* ideas, but they are not used as independent arguments, but are combined with various other perspectives that are part of the fatwa arguments. *Fourth*, the character of openness in the form of an elaboration of the Islamic legal approach with the opinions of experts regarding the use of social media

Keywords : Epistemology, Fatwa MUI, Social media, Jasser Auda.

Abstrak

Penelitian ini bermaksud untuk mengidentifikasi pendekatan hukum Islam dalam penetapan fatwa Majelis Ulama Indonesia (MUI) Nomor 24 Tahun 2017 tentang Hukum dan Pedoman Bermuamalah Melalui Media Sosial. Penelitian pustaka ini termasuk jenis penelitian normatif filosofis dengan menggunakan pendekatan sistem hukum Islam. Hasil penelitian menyimpulkan bahwa penetapan fatwa MUI atas pedoman interaksi sosial melalui media social menggunakan pendekatan hukum Islam yang bersifat holistik. Kesimpulan besar inidapat dilihat dari berbagai karakteristik sebagai berikut: *Pertama*, karakter menyeluruh (*wholeness*) dan multidimensi dalam penggunaan dalil-dalil nas yang bersifat universal ('*aam*). *Kedua*, karakter kebermaksudan (*purpose*) berupa penggunaan berbagai kaidah fikih yang menekankan kemaslahatan sebagai dasar penetapan hukum. *Ketiga*, karakter kognitif berupa penggunaan beberapa pemikiran fikih klasik, namun tidak dijadikan sebagai dalil independen, melainkan dipadu dengan berbagai perspektif lain yang menjadi bagian dalil fatwa. *Keempat*, karakter keterbukaan dalam elaborasi pendekatan hukum Islam dengan pendapat para ahli terkait penggunaan media sosial.

Kata Kunci : Epistemologi, Fatwa MUI, Media sosial, Jasser Auda

Background

As a medium of social interaction which is widely used by modern society, the existence of social media in the realm of praxis causes many problems of social interaction. Such a statement can be seen from the many problems of social interaction that are often found in it, including the delivery of information and disagreements without being accompanied by an attitude of

respect, tolerance and empathy between social media users. Many also found various fake news spread by social media users. Even hate speech, such as insults, incitement, political provocation, defamation and so on.¹It doesn't stop there, the problem of using social media as a medium of social interaction also leaves new problems and challenges in the world of religious broadcasting activities.² Various forms of problems in the use of social media as a medium of social interaction necessitate the importance of the existence of social norms, religion, and even religious norms that regulate it.³

Responding to the various empirical problems in the use of social media above, the Indonesian Ulema Council (MUI) stipulates the MUI Fatwa Number 24 of 2017 concerning Laws and Guidelines for Social Interaction Through Social Media.⁴However, it is important to note that prior to the existence of the MUI Fatwa, the Indonesian government had ratified the Law of the Republic of Indonesia Number 11 of 2008 concerning Information and Electronic Transactions.⁵ Although there has been a set of national legal norms and also the MUI fatwa that regulates the use of social media. However, the number of cases of violations in terms of the use of social media in Indonesia is still relatively high. In 2020, there is an increase in criminal cases related to activities using social media. In that year, there have been around 59 cases from the previous year's number (2019) which reached 24 cases.⁶

As a product of Islamic legal *ijtihad* related to modern issues, MUI should use an Islamic legal approach that is not only based on the basis of the normative text of Islamic law, but also considers various approaches that are closely related to cases of problems that are the object of *ijtihad* while still considering various aspects of benefit (*maslahat*.) which is the orientation of Islamic law enforcement (*maqashid sharia*). According to Nurcholish Madjid (Cak Nur) as quoted by Athoillah Islamy, so that the products of Islamic legal thought can always be compatible with the complex and dynamic problems of contemporary society, Islamic law *ijtihad* activities are needed that are not only deductive in nature, but must be combined with various values that the orientation of Islamic law.⁷Cak Nur's view parallels the approach to Islamic law that has developed in the discourse of contemporary Islamic legal thought. Jasser Auda, for example, stated that in order to solve the complex and dynamic problems of modern Islamic law, a logical approach to Islamic law is needed that is not textual, reductionist, or dichotomous.⁸In this context, Auda offers a holistic approach to Islamic law. Through various features in the systems philosophy approach, Auda develops a new model of Islamic law approach with a holistic character. These various features, among others, features of cognition, wholeness, openness, relational hierarchical relations, multidimensionality, and intentionality.⁹

¹Dian Junita Ningrum, Suryadi Suryadi, and Dian Eka Chandra Wardhana, "Kajian Ujaran Kebencian di Media Sosial," *Jurnal Ilmiah Korpus* 2, no. 3 (2018): 241.

²Mastori Mastori and Athoillah Islamy, "Menggagas Etika Dakwah di Ruang Media Sosial," *Komunikasia: Journal of Islamic Communication and Broadcasting* 1, no. 1 (2021): 2.

³Athoillah Islamy, "Paradigma Sosial Profetik dalam Bermuamalah di Media Sosial," *Tadbir: Jurnal Manajemen Dakwah FDIK LAIN Padangsidempuan* 3, no. 1 (2021): 86.

⁴Komisi Fatwa, "Fatwa Majelis Ulama Indonesia (MUI) Nomor 24 Tahun 2017 tentang Hukum dan Pedoman Bermuamalah Melalui Media Sosial" (n.d.), accessed August 14, 2021.

⁵Radita Setiawan and Muhammad Okky Arista, "Efektivitas Undang-Undang Informasi dan Transaksi Elektronik di Indonesia dalam Aspek Hukum Pidana," *Jurnal Hukum Pidana dan Penanggulangan Kejahatan* 2, no. 2 (2013): 139.

⁶Perludem, "Penyalahgunaan Medsos Meningkat," Mei 2020, <https://perludem.org/wp-content>.

⁷Athoillah Islamy, "Pemikiran Hukum Islam Nurcholish Madjid" (Semarang, Disertasi Pascasarjana Universitas Islam Negeri Walisongo, 2021), 52.

⁸Hengki Ferdiansyah, "Pemikiran Hukum Islam Jasser Auda" (Master's Thesis, Sekolah Pascasarjana UIN Syarif Hidayatullah Jakarta, 2017), 92.

⁹Zaprulkhan Zaprulkhan, "Maqāshid Al-Shariah in the Contemporary Islamic Legal Discourse: Perspective of

The author realizes that after the issuance of the MUI Fatwa on law and guidelines for social interaction in social media, there are several studies that examine it with a variety of study focuses and perspectives, among others, as follows.

Ikhwanuddin Harahap said that the consideration of benefit (*al-maslahah*) which is the orientation of Islamic law is an important part of the consideration of the Indonesian Ulema Council (MUI) in issuing the MUI fatwa on Law and Guidelines for Social Interaction through Social Media.¹⁰ Ikhwanuddin's research has relevance to the author's research, but the focus and results of the Ikhwanuddin's research are still partial, that is, they have not tried to explore the various elements that form the epistemological basis of Islamic law in the MUI Fatwa. Still limited to finding elements of benefit.

Next, Subehan Khalik said that the MUI fatwa norms regarding guidelines for muamalah on social media have not regulated the use of social media in the context of economic transactions. However, these norms are very much needed. Considering that in the current digital era, many people use social media as a medium for online business transactions (e-commerce). Where there are many cases of violations in these online transactions.¹¹ In contrast to Subehan's research, this research is more on the paradigmatic aspect which is used as the epistemological basis of Islamic law in the construction of the MUI Fatwa norm on Law and Guidelines for Social Interaction in Social Media.

Furthermore, Athoillah Islamy concluded that the fatwa of the MUI legal provisions that limit the freedom of social interaction through social media is a legal provision in realizing the benefit of individuals (*al-maslahatal-kebassab*) and society (*al-maslahat al-ammah*).¹² Like Ikhwanuddin Harahap's research, Athoillah's research is still partial in exploring the epistemological basis in the construction of the MUI fatwa on Laws and Guidelines for social interaction on social media, which is still limited to the *maslahah* arguments found. Then QurrotaA'yun and Nurul Istiani (2021) in their research revealed that the epistemological construction of the MUI fatwa related to social interaction through social media tends to combine the foundations of idealism and realism of Islamic law.¹³ A'yun and Istiani's research has strong relevance to this author's research.

In contrast to the various studies above, this literature study seeks to identify the epistemology of the determination of the Indonesian Ulema Council's fatwa related to the code of ethics for social interaction on social media. The primary data of this research is the fatwa document of the Indonesian Ulema Council Number 24 of 2017 concerning the law and guidelines for social interaction through social media. Meanwhile, secondary data used, namely various scientific studies that have relevance to the main study of this research. This literature research belongs to the category of philosophical normative legal research using the Islamic legal system approach that was initiated by Jasser Auda. The various instruments in the Jaser Auda system approach will be used to

Jasser Auda, "Walisono: Jurnal Penelitian Sosial Keagamaan 26, no. 2 (2018): 446.

¹⁰Ikhwanuddin Harahap, "Pendekatan Al-Maslahah Dalam Fatwa Majelis Ulama Indonesia (MUI) Nomor 24 Tahun 2017 tentang Hukum dan Pedoman Bermuamalah Melalui Media Sosial," *Yurisprudencia: Jurnal Hukum Ekonomi* 3, no. 1 (2017): 64.

¹¹Subehan Khalik Umar, "Studi Kritis terhadap Respon Majelis Ulama Indonesia (MUI) tentang Pemanfaatan Media Sosial dalam Bermuamalah," *Al*

Daulab: Jurnal Hukum Pidana dan Ketatanegaraan 7, no. 1 (2018): 40.

¹²Athoillah Islamy, "Fatwa About Social Interaction on Social Media In The Paradigm of Islamic Legal Philosophy," *Al-Mishbah: Jurnal Ilmu Dakwah dan Komunikasi* 15, no. 2 (2020): 163.

¹³Qurrota A'yun and Nurul Istiani, "Epistemologi Fikih di Media Sosial (Konstruksi Epistemologis Fatwa Majelis Ulama Indonesia tentang Bermuamalah)," *Risalah, Jurnal Pendidikan dan Studi Islam* 7, no. 2 (2021): 279.

identify various epistemological elements in the formulation of the MUI fatwa on law and guidelines for social interaction through social media.

Through the research method above, this research is expected to be able to answer the question of whether the fatwa emphasizes a holistic-integrative approach to Islamic law? Or is it a textualist-dichotomous approach to Islamic law? Such questions are urgent. Especially if you look at the existence of the MUI fatwa itself, which often reaps the pros and cons of the Indonesian Muslim community itself.

System Philosophy Paradigm in Contemporary Islamic Legal Approach

The development of science and technology as well as the dynamic changes in social conditions today should be used as important elements to re-understand various Islamic legal doctrines in the classical fiqh literature. It aims to find a contextual understanding of Islamic law.¹⁴ This necessitates the importance of reforming Islamic law, not only in terms of the product of thought, but also in the methodological aspects of existing Islamic law.

It is undeniable that in the development of contemporary Islamic law methodology, studies on the development of the concept of *maqasid shariah* towards the end of the 20th century is growing.¹⁵ Syamsul Anwar said that the existence of the *maqashid shari'ah* concept is increasingly being studied, developed and even used by Islamic law scholars (experts) in solving complex modern legal problems. According to him, this

is due to the concept of *maqashid shari'ah* as part of the *ushul fiqh* theory which is flexible and universal in developing products of Islamic legal thought.¹⁶

However, although *maqasid shariah* has been seen as a new approach in Islamic law, in practice, it can cause difficulties if the concept is not updated.¹⁷ The use of *maqashid* without being combined with other approaches can make it a tool of apology and even mere legal confirmation. Not only that, its existence can cause difficulties when used to answer problems of Islamic law related to contemporary issues, such as issues of Human Rights (HAM), gender, pluralism, nationalism, and so on.¹⁸ Responding to this, Amin Abdullah stated the importance of awareness to integrate the classical *maqashid shariah* concept with historical and philosophical approaches. This is intended so that *maqasid* can become an actual and responsive approach to Islamic law to various modern legal issues.¹⁹

One of the phenomenal figures in the development of modern *maqashid shariah* studies today, namely Jasser Auda. He was born in 1966 AD in Cairo. His intellectual odyssey began at al-Azhar University by participating in various studies of Islamic studies at the al-Azhar Mosque in a non-formal manner. His undergraduate education at Cairo University by taking the Communication Studies study program was completed in 1988, and a master's degree was obtained in 1993. Meanwhile, He completed his doctoral degree in systems analysis at the University of Waterloo, Canada in 1996. But that was not enough, Auda decided to return to his studies at the Islamic American University with a focus on Islamic law studies,

¹⁴Athoillah Islamy, "Gender Mainstreaming dalam Al-Qur'an dan Hadis Serta Relevansinya terhadap Epistemologi Hukum Islam," *Jurnal Hukum Islam* 15, no. 1 (2017): 195-196.

¹⁵Zaprulkhan, "Maqāṣid Al-Shariah in the Contemporary Islamic Legal Discourse," 446.

¹⁶Syamsul Anwar, "Maqashid Shari'ah dalam Metodologi Ushul Fikih dalam Fikih Kebinekaan (Bandung, Mizan Pustaka, 2015)," *Bandung: Mizan Pustaka*, 2015, 71.

¹⁷Aprizal Sulthon Rasyidi, "The Significants and Arguments for the Renewal of Maqāṣid Al-Sharī'ah," *Ulumuddin Journal of Islamic Legal Studies* 1, no. 1 (2020): 46.

¹⁸Ferdiansyah, "Pemikiran Hukum Islam Jasser Auda," 7-8.

¹⁹M. Amin Abdullah, "Bangunan Baru Epistemologi Keilmuan Studi Hukum Islam dalam Merespon Globalisasi," *Aisy-Syir'ab: Jurnal Ilmu Syari'ah dan Hukum* 46, no. 2 (2012): 316.

and succeeded in completing it in 1999. Then his Master's degree with the same concentration in law was completed in 2004 at the same campus. Furthermore, he completed his doctoral program in Islamic Law at the University of Wales in 2008.

Jasser Auda is a professor at the Qatar Faculty of Islamic Studies (QFIS). In addition, he is also listed as a founding member of the international association of Muslim scholars based in Dublin. He is a prolific writer in producing various works related to the study of Islamic law, especially the study of *maqashid shariah*, including *Fiqh al-Maqshid: Inatab al-Abkam al-Shariah Bi Maqasidiba* (2006) *Maqasid al-Shari'ah as Philosophy of Islamic Law: A Systems Approach* (2007), *Maqasid al-Shari'ah: Dalil al-Mubtadi'in* (2011).²⁰ Thus, it can be said that apart from having a social science background, Auda also has an educational background and intensive Islamic law studies activities, especially in the study of *maqashid shariah*.

According to Jasser Auda, a holistic approach to Islamic law is needed in responding to various complex problems of contemporary Islamic law. In this case, he emphasized the importance of developing efforts on the existing classical Islamic law approach.²¹ According to him, there are six features in systems philosophy that can be used as developments in contemporary Islamic legal approaches, among others, as follows:²²

First, the features of cognition. The existence of this feature realizes that the product of Islamic legal thought originating from the dialectic of knowledge and the reality of life may have weaknesses that can be rejected and developed. *Second*, the overall features. This feature necessitates the importance of a comprehensive Islamic legal paradigm in making

various components in the Islamic legal system. Considering there is a reductionist and atomistic tendency of Islamic law logic in classical *ushul fiqh* logic. For example, emphasizing the use of partial arguments, such as emphasizing the *maslahah* argument alongside universal arguments, such as *maqashid shariah*. *Third*, the openness feature. The characteristics of openness in the Islamic legal system should not be ignored. already established in responding to the problems of the new Islamic law. *Fourth*, the feature of the relational hierarchy. The existence of this feature emphasizes the importance of the relational integrative paradigm in the Islamic legal system. For example, the hierarchy of benefits, both *daruriyah*, *hajiat* and *tabsiniyah* are in an equal and important position. *Fifth*, multi-dimensional features. It is important that the Islamic legal system is a legal system that has various dimensions. On this basis, there is no need for a binary oppositional logic in the use of Islamic legal arguments, because various arguments that are seen as contradictory so far can be collateratively, even integratively, as is the case. the *dalil qot'i* and *ẓanni*. *Sixth*, purpose. In this feature, the existence of *maqashid shariah* becomes a core objective feature in the Islamic legal system. However, it should be noted that this feature of intent should not be separated from several other features of previous Islamic law (cognition, wholeness, openness, relational hierarchical and multi-dimensional features).²³

The Islamic legal system approach that was initiated by Jasser Auda through various features of the system philosophy as above will be used to identify the Islamic legal approach in determining the MUI fatwa on Law and Guidelines for Social Interaction through Social Media.

²⁰Ferdiansyah, "Pemikiran Hukum Islam Jasser Auda," 67–71.

²¹Jasser Auda, *Maqashid Al-Syari'ah as Philosophy of Islamic A System Approach* (London: The International Institut of Islamic Thought, 2008), 29.

²²Ferdiansyah, "Pemikiran Hukum Islam Jasser Auda," 104–5.

²³Ferdiansyah, 105–25.

The Role of Social Media: Social Interaction Media for Modern Society

The presence of social media (social media) for example. Social media has become a medium of social interaction, both in the context of communication and information that is much loved by modern society.²⁴ The existence of social media has played a major role in all aspects of modern society's life, both in the fields of education, economy, politics, socio-cultural and religious. On this basis, it is not surprising that social media has become a trend of globalization in the field of communication and information media, which is widely used by people in various parts of the country. excluding Indonesia.²⁵

There are two characters that make social media superior to conventional communication media. *First*, social media uses internet networks that can make it a medium of communication and information with a wide range, which is not limited by distance, time or place. *Second*, social media can be an interactive communication medium that provides various forms of services for its users to be able to communicate with each other interactively, intensely and even face to face.²⁶ Therefore, it can be said that communication through social media is no longer limited to physical relations, but also face-to-face relationships

It is important to know that the existence of social media in the context of social interaction media has been able to shift the role of conventional mass media in the world of information.²⁷ In this context, Shiefti Dyah Alyusi said that there are five characteristics of an information society. First, the condition of

society that can take advantage of mass media and global communication. Second, the condition of people who have awareness of the importance of information and efforts to get it. Third, the condition of society that makes the existence of information as an economic commodity. Fourth, the condition of people who interact socially in a global society system. Fifth, the condition of people who can access various forms of information quickly.²⁸

Based on the description above, it can be concluded that social media contributes greatly to the formation of the information society. Therefore, it is not surprising that the existence of social media as a medium of social interaction has offered new paradigms and ways of communicating and information in the life activities of modern society.

Construction of the Epistemology of the Fatwa of the Indonesian Ulema Council on Social Interaction in Social Media in a Islamic Legal System Approach

It is important to realize and know that true Islamic universalism lies not in the detailed aspects of its teachings, but in the various universal teachings it emphasizes, such as the value of justice, benefit, and the character of its flexibility in responding to the dynamics of the development of social life of the people with various existing problems.²⁹ The manifestation of the universalism of Islamic teachings can be seen in the MUI fatwa related to the law of social interaction through social media. The existence of the fatwa shows that Islamic teachings in the context of Islamic law can be accommodative and adaptive regarding the importance of legal

²⁴Maya Sandra Rosita Dewi, "Islam dan Etika Bermedia (Kajian Etika Komunikasi Netizen di Media Sosial Instagram dalam Perspektif Islam)," *Research Fair Unisri* 3, no. 1 (2019): 139–40.

²⁵Nurul Istiani and Athoillah Islamy, "Fikih Media Sosial di Indonesia (Studi Analisis Falsafah Hukum Islam dalam Kode Etik NetizMu Muhammadiyah)," *Asy Syar'iyah: Jurnal Ilmu Syari'ah dan Perbankan Islam* 5, no. 2 (2020): 203–4.

²⁶Rulli Nasrullah, *Teori dan Riset Media Siber (Cybermedia)* (Kencana, 2016), 75–78.

²⁷Fauzi Syarief, "Pemanfaatan Media Sosial dalam Proses Pembentukan Opini Publik (Analisa Wacana Twitter Sby)," *Jurnal Komunikasi* 8, no. 3 (2017): 264.

²⁸Shiefti Dyah Alyusi, *Media sosial: Interaksi, Identitas dan Modal Sosial* (Prenada Media, 2019), 25–26.

²⁹Athoillah Islamy, "Landasan Filosofis dan Corak Pendekatan Abdurrahman Wahid tentang Implementasi Hukum Islam di Indonesia," *Al-Adalah: Jurnal Hukum dan Politik Islam* 6, no. 1 (2021): 61.

provisions on the issue of using social media as a medium of social interaction for today's modern society.

Regardless of the influence of the MUI fatwa in the community, it is important to realize that the construction of various fatwas formulated by the MUI is certainly not only a formalistic legal dimension, but also has an approach dimension in its determination which is important to know.³⁰ Therefore, in this chapter, an analysis of the determination of the MUI fatwa regarding the law and guidelines for muamalah through social media will be described in the approach to the Islamic legal system initiated by JasserAuda. Further description as follows.

First, nash (al-Quran and Hadith) arguments. In this context, the *nas* arguments which are used as the basis for the MUI Fatwa argument tend to use various verses that contain the message of general clauses (*ām*) rather than special clauses (*khāsh*). This can be seen in various verses that are used as the arguments for the MUI Fatwa, among others, (1) QS. Al-Hujurat verse 6 which means: "O you who believe, if a wicked person comes to you with news, then examine it carefully, so that you do not inflict a disaster on a people without knowing the situation that causes you to regret what you did." (2) QS. An-Nur verse 16 which means "And why did you not say, when you heard the false news: "It is not proper for us to say this, Glory be to You (Our Lord), this is a big lie."(3) QS. Al-Humazah verse 1 which means "Woe to every slanderer again." (4) QS Al-Maidah verse 8 which means "O you who believe, be people who always uphold (the truth) for Allah, be a fair witness. And don't let your hatred of a people encourage you to act unjustly. Be fair, because fair is closer to piety. And fear Allah, verily Allah is Knowing of what you do." (5) Surah Al-Azhab verse 58 which means "And those who hurt

the believers and believers without what they did wrong, then indeed they have bear lies and plain sins."

Then the various Hadiths used include (1) "Whoever believes in Allah and the Last Day then he should say good or keep silent." (Narrated by Bukhari and Muslim). (2) "All Muslims are brothers. It is not permissible to do injustice or injustice to him. Whoever helps meet the needs of his brother, Allah SWT will fulfill his needs, and whoever helps relieve his brother's difficulties, Allah SWT will relieve his difficulties on the Day of Resurrection. And whoever covers the disgrace of a Muslim, Allah will cover his disgrace on the Day of Resurrection." (Narrated by al-Bukhari). (3) "A Muslim is a person who is able to make others feel safe, by guarding his tongue and hands. While the person who migrates is someone who moves to stay away from things that are forbidden by Allah SWT. (Narrated by al-Bukhari and Muslim) (4) "Stay away from prejudice, for verily prejudice is the most false speech. Don't find fault with others, don't brag about each other (in worldly matters), don't be jealous of each other, hate one another, and look away from one another. Be brothers of Allah's servants." (Narrated by al-Bukhari).³¹

The various textual arguments that are universal (*'am*) above show that the stipulation of the MUI fatwa No.24 of 2017 emphasizes more on universal social-ethical values in various verses of *am*. But it doesn't stop there, these values are contextualized with legal rules or norms that regulate ethics in social media. According to Jasser Auda, a comprehensive approach to Islamic law is needed in the formulation of Islamic law related to dynamic and complex contemporary issues. The importance of this comprehensive logic necessitates the importance of emphasizing the use of legal propositions that are universal rather than partial.³² Not only that, Auda also said that the Islamic legal system is a legal system that has various dimensions (multi-dimensional).

³⁰Zakaria Syafei, "Tracing Maqasid Al-Shari'ah in the Fatwas of Indonesian Council of Ulama (MUI)," *Journal of Indonesian Islam* 11, no. 1 (2017): 119.

³¹Fatwa, Fatwa Majelis Ulama Indonesia (MUI) Nomor 24 Tahun 2017 tentang Hukum dan Pedoman Bermuamalah Melalui Media Sosial, 1-7.

³²Auda, *Maqashid Al-Syari'ah as Philosophy of Islamic A System Approach*, 197-98.

Therefore, the binary opposition logic in the approach to Islamic law which dichotomizes the arguments must be eliminated.³³ From this it can be concluded that the emphasis on the use of universal textual arguments ('aam) in the determination of the MUI fatwa No.24 of 2017 is in line with the characteristics of the comprehensive and multidimensional approach to contemporary Islamic law.

Second, rules of Islamic law (*qawaid fiqhiyah*), among others. (1) *al-aslu fi al-mu'amalati al-ibaakhatuilla an yadulludaliilun 'alaa al-takbriimi* (basically, all forms of muamalat are allowed unless there is a proposition that prohibits it or negates its ability). (2) *dar'ual-mafaasid 'alaaalbi al-mashoolikhi* (avoiding mafsadat takes precedence over bringing benefit). (3) *al-dararuyuzalu* (danger must be removed). (4) *al-Kitaabukalkhitoobi* (the writing has a legal status like speech). (5) *laa'ibrotulittawaahimi* (delusions of things that are still hypothetical cannot be used as a guide). (6) *tsborrufu al-imaami 'alaa al-roo'iyatimanuuthun bi al-mashlakhati* (a leader's policy over the people must be based on benefit).³⁴

The use of a number of *fiqh* rules above shows the various legal rules in determining the MUI fatwa No. 24 of 2017 emphasizing various rules that are preventive in nature (*sadd al-dzari'ah*) and universal benefit (*maslahamursalah*). It is important to understand that the *sadd al-dzari'ah* rule is one of the postulates of Islamic law that is flexible in responding to dynamic and complex legal issues while still positioning the dimension of benefit as the core goal in establishing law.³⁵ Likewise, *maslahamursalah* is a legal argument that does not require explicit support from the texts in making the orientation of benefit as a legal footing on an issue. According to Jasser Auda, the existence of *maqasid shariah* is a benefit which is the main goal

in establishing Islamic law. Auda stated that it is a feature of intent that should not be excluded in the Islamic legal system.³⁶ Not only that, the existence of *maqasid shariah* as a feature intends to occupy a purpose (*ghayat*) position that is not monolithic, which can be in the form of various forms of benefit in a legal determination.³⁷ From this it can be said that the MUI's use of a number of *fiqh* rules with preventive dimensions and benefits in determining fatwas on laws and guidelines for muamalah through social media is an Islamic legal approach that emphasizes the orientation of realizing the benefit of human life for the benefit.

Third, the opinions of classical scholars. The opinions of scholars who are part of the MUI fatwa argument regarding muamalah on social media, among others. (1) Al-Imam An-Nawawi's opinion in the Book of Syarh Sahih Muslim regarding the attitude of responding to the spread of news that comes (2) Opinion of Imam al-Nawawi Qurthuby in the book of Tafsir Al-Qurtubi in interpreting the verses of the Koran related to backbiting (3) Opinion of Imam al-Nawawi in the book of Riyadlu al-Salihin regarding exceptions backbiting ability.

The use of a number of views of classical *fiqh* experts above shows that MUI realizes that classical *fiqh* thought as a treasure trove of Islamic legal thought heritage can still be the basis for reference in determining the law on contemporary issues. However, these various classical Islamic legal opinions are not used as an independent legal basis, but are part of various elements of determining fatwas on law and guidelines for *muamalah* through social media. According to Jasser Auda, the existence of *fiqh* as a product of Islamic legal thought has a cognitive dimension that must be realized, making it possible that its validity as a dialectic

³³Ferdiansyah, "Pemikiran Hukum Islam Jasser Auda," 126–27.

³⁴Fatwa, Fatwa Majelis Ulama Indonesia (MUI) Nomor 24 Tahun 2017 tentang Hukum dan Pedoman Bermuamalah Melalui Media Sosial, 7–8.

³⁵Ali Imron, "Menerapkan Hukum Islam yang Inovatif dengan Metode Sadd Al Dzari'ah," *QISTIE* 4, no. 1 (2010): 65.

³⁶Auda, *Maqasid Al-Syari'ah as Philosophy of Islamic A System Approach*, 54.

³⁷Auda, 55.

product of human cognition and reality has weaknesses and needs to be updated, even revised.³⁸ Therefore, it can be said that the MUI realizes that classical Islamic legal thought cannot be used as an independent argument, it needs to be integrated with various other elements which are the arguments in establishing the law. In other words, MUI realizes that as a product of classical Islamic legal thought, the existence of classical *fiqh* opinions is important to be elaborated with various perspectives in determining dynamic and complex modern legal issues.

Fourth, opinions of experts related to the use of social media. In this consideration, they are used, among others. (1) Explanation of the Minister of Communication and Information Technology of the Republic of Indonesia (RI) on the importance of the role of society in building literacy in the use of digital media (2) Explanation of the Director General of Aptika Kominfo RI and explanations of Digital Media Experts and Practitioners, Nu'man Luthfi and Teddy Sukardi about the problem map in the digital world, the problems and various strategies taken as well as the importance of the involvement of the whole community in supporting the use of social media for the benefit and preventing the negative impacts caused.³⁹

The involvement of expert opinions regarding the use of social media above shows that the MUI is aware of the importance of integrating Islamic legal thought with medicine in establishing laws on laws and guidelines for social interaction through social media.⁴⁰ According to Jasser Auda, the existence of Islamic legal products must be positioned as an

open legal system. Auda said that to create an open Islamic legal system, it is necessary to develop instruments for various classical Islamic law methods, so that they become legal methods that are applicable to the complexity of the legal problems faced.⁴¹ Therefore, Auda stated the importance of engaging a competent world view based on scientific thinking, not just based on speculation (allegations).⁴² On this basis, it is no exaggeration to say that MUI emphasizes the importance of an open approach to Islamic law in the process of determining fatwas on laws and guidelines for social interaction through social media. This conclusion can be seen from the involvement of medical experts in the analysis of the fatwa. In other words, MUI provides space for the integration of Islamic law approaches with the development of science that develops in determining fatwas on law and guidelines for social interaction through social media.

Conclusion

Based on the core discussion of this research, it is concluded that the determination of the fatwa of the Indonesian Ulema Council Number 24 of 2017 concerning Law and Guidelines for Social Interaction Through Social Media emphasizes an integrative approach to Islamic law. This big conclusion can be seen from the characteristics of the various elements that are taken into consideration in determining the fatwa. First, the comprehensive and multidimensional character is the use of universal textual arguments (*'aam*). Second, the character of intent is the use of various *fiqh* rules that emphasize benefit as the argument as well as the goal in establishing the law. Third, the cognitive character is the use of some classical *fiqh* ideas, but they are not used as independent

³⁸Auda, 46.

³⁹Fatwa, Fatwa Majelis Ulama Indonesia (MUI) Nomor 24 Tahun 2017 tentang Hukum dan Pedoman Bermuamalah Melalui Media Sosial, 10–11.

⁴⁰Azhar Arsyad, "Integration Tree and the Interconnectivity of Science and Religion," *Kalimah: Jurnal Studi Agama dan Pemikiran Islam* 14, no. 2 (2016): 115.

⁴¹Auda, *Maqashid Al-Syari'ah as Philosophy of Islamic A System Approach*, 202.

⁴²Ferdiansyah, "Pemikiran Hukum Islam Jasser Auda," 111–15.

arguments, but are combined with various other perspectives that are part of the fatwa arguments. Fourth, the character of openness in the form of an elaboration of the Islamic law approach with the opinions of experts regarding the use of social media.

The theoretical implication of the findings of this study shows that the Islamic law approach in the MUI fatwa related to Law and Guidelines for Social Interaction Through Social Media is an approach to Islamic law that is not dichotomous, but rather an approach that combines various normative foundations of theological texts (*nash*), Islamic legal theory as well as Islamic legal thought classical as well as developing science. In other words, there is no term independence of argument in the formulation of the fatwa.

There is a gap in the discussion of this research that can be the object of study for future researchers, namely how government intervention (politics) in the strategy of formulating the MUI fatwa is the main data object of this research. Is the strategy orthodox, responsive or semi-responsive.

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