THE CHALLENGES OF FATWA INSTITUTIONS IN MALAYSIA IN FACING THE PROGRESS OF SCIENCE AND TECHNOLOGY

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ABSTRACT

Dense technology development nowadays leads to various new issues especially in the law determination. Most of the problems have never happened before; in fact they have never been discussed in details in the books of fiqh previously. Moreover, the qualification of a mufti is usually in their main field which is in sharia studies. In encountering the problems, fatwa institution becomes the most affected body due to its role to solve the problems from the aspect of religion. Therefore, fatwa institutions in Malaysia need to take appropriate actions to get along with technology progress. This article intends to see the challenges faced by fatwa institutions in Malaysia and resolving measures executed to solve problems happening due to the technology development. This article is divided into two objectives. First, the roles of fatwa institutions in Malaysia. Second, the challenges and solutions performed by fatwa institutions to problems regarding technology. This study used documentation method to collect data. Those data then were analysed through content analysis method. The study found that there are two main institutions functioning to solve fatwa problems in
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Malaysia which are Department of Islamic Development Malaysia (JAKIM) and state fatwa institutions throughout Malaysia. These institutions are assisted by governmental and non-governmental bodies in ensuring the resolution of rising religious problems in Malaysia. The study also found that there are many problems faced Muslim community in Malaysia due to technology development including modern medicine, information technology and others. To handle these problems, fatwa institutions in Malaysia has done a lot of efforts to solve them according to Islamic perspective including by strengthening the methodology of contemporary fatwa research, organising fatwa discussion in group and appointing the experts of related fields.

Keywords: Fatwa, technology, Department of Mufti Malaysia, JAKIM, research.


1. INTRODUCTION

Nowadays, technology progress is an undeniable reality. The development occurs drastically due to the occurring globalisation process (Rose, 1997). The progress is undeniable, supported by the fact that the world community do anticipate the technology progress in their daily life. Indirectly, the technology development affects human life.

According to Abdillah (2003), the development of science and technology nowadays has affected the change of community socio-culture. As a result, issues or new problems related to religion will rise. Al-Qaradawi (1997) explained that the need of understanding the reality (fiqh al-waqi) is an important component in law determination besides comprehending the texts of al-Quran and al-Sunnah (Fiqh al-Nusus) merely. Indeed, classical fiqh scholars had long discussed the changes and forms of changed fatwa due to the revolving environment and situation.

Besides that, today’s Islamic scholars gain a lot of benefits through development of science and technology. This is because technology resolves many problems and provides a clear picture to them as a preparation to produce fatwa (Hamdan et al. 2015). Fatwa is very important to Muslim community because it is a form of law explanation to the posed questions by Muslim community (Khairuldin, 2016 & 2017).

Fatwa institution is an important body especially in explaining the Islamic laws to Muslim community. Therefore, in encountering the challenges of science and technology nowadays, fatwa institution including in Malaysia should be proactive in fulfilling the need to solve the problems of Muslim community (Khairuldin et al., 2018). Thus, this article discusses the position and roles of fatwa institution in Malaysia. Then, this article clarifies the challenges and solutions by fatwa institution in facing the development of science and technology nowadays.

2. METHODOLOGY

Research methodology for this article is divided into two forms. First, data collection method. This study used documentation method to collect data related to the position of fatwa institution in Malaysia. This method was also used to gain data regarding the forms of fatwa related to science and technology which had been discussed by fatwa institution in Malaysia. The data collection involved books and official websites of fatwa institution in Malaysia.
The collected data from previous data collection level was then analysed through content analysis method. Content analysis was used to scrutinize and to explain the commentary in the collected documents and books. The findings of this study would explain the position and roles of fatwa institution in Malaysia. Besides that, challenges met by fatwa institution in facing the progress of science and technology would also be explained through the content analysis method.

3. RESULT AND DISCUSSIONS

3.1. Roles and Position of Fatwa Institution in Malaysia

Malaysia is a unique country especially in structure of fatwa institution. According to Kasan (2001), Muslim community in Malaysia referred directly to the scholars before the country of Malaysia was formed. This situation remained until specific fatwa institution was found to care of Islamic matters. As a result, fatwa institution in Malaysia was organised more systematically.

Fatwa institution in Malaysia becomes the main reference for Muslim community. These institutions involve directly in the production of fatwa especially when there are national, state and even individual issues that need to be resolved. The produced fatwas by the institutions encompass many aspects in life including worship, interaction (muamalat), faith and also science and technology. The dependence of Muslim community to the fatwa institution indicates its significant position among Muslim community in Malaysia (Rosele, 2013).

In Malaysia, there are 14 state fatwa institution led by a mufti. In addition, each state has a group of fatwa committee members to help the mufti in solving local problems. Referring to Yasin (2006) and Salleh (2016).), the variety of fatwa institution is according to Federal Constitution in which authority regarding Islamic matters in Malaysia is under the authority of state government led by King or Sultan.

These state fatwa institutions are also assisted by a fatwa committee at the national level. This committee is known as Fatwa Committee of National Council for Islamic Matters in Malaysia under National Council for Islamic Matters (MKI). This MKI committee has a clear objective in producing fatwa at the national level. Besides that, this committee also functions as a secretariat in standardising the fatwas to be decided at the state level (Yasin, 2006; Khairuldin et al. 2019).

According to Mamat (2013), all the fatwa institutions in Malaysia possess the same roles and objectives. They serve to produce fatwa to the public in each state. Mufti and Committee of Fatwa will join force to solve current problems. This can be visualised according to enactments of mufti and fatwa range of authority in Malaysia, such as Enactment of Islam Management (State of Selangor) 2003:

“With regard to section 51, Fatwa Committee should, under commandment of His Highness Sultan, and can be under its own will or under demand of any individual through the letter addressed to Mufti, prepare a fatwa on any undecided problems or any controversial matter regarding Syaria Laws.”

Besides that, MKI Committee also plays a participating role as a fatwa body at the national level in handling problems of laws related to principles, policies and standardisation. According to Naemah (2005), MKI Committee is regarded as the most authorised fatwa institution in producing fatwa in Malaysia even though it has no enforcement area like fatwa institution in each state.

3.2. Challenges of Fatwa Institution in Malaysia in Facing the Progress of Science and Technology
As the main and most authorised body in Malaysia, fatwa institution through MKI Committee and state fatwa institutions in Malaysia always encounter various problems in science and technology field. Table 1 shows five main fatwas published for each field regarding science and technology in Malaysia.

Table 1: Examples of Fatwa Lists in the field of Science and Technology declared in Malaysia

<table>
<thead>
<tr>
<th>No</th>
<th>Fatwa</th>
<th>Year declared</th>
<th>Field</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>Human Cloning</td>
<td>2002</td>
<td>Medical Science and Technology</td>
</tr>
<tr>
<td>2</td>
<td>Organ Donation – Transfer of Heart and Eyes</td>
<td>1970</td>
<td></td>
</tr>
<tr>
<td>3</td>
<td>Euthanasia</td>
<td>2011</td>
<td></td>
</tr>
<tr>
<td>4</td>
<td>Therapeutic Cloning and Stem Cell Research</td>
<td>2005</td>
<td></td>
</tr>
<tr>
<td>5</td>
<td>Test Tube Baby</td>
<td>1982</td>
<td></td>
</tr>
<tr>
<td>6</td>
<td>Alcohol as Soft Drink Stabiliser</td>
<td>1988</td>
<td>Food Science and Biotechnology</td>
</tr>
<tr>
<td>7</td>
<td>Substance Using Alcoholic Compound (Ethanol)</td>
<td>1984</td>
<td></td>
</tr>
<tr>
<td>8</td>
<td>Gelatin in Medicine</td>
<td>1984</td>
<td></td>
</tr>
<tr>
<td>9</td>
<td>Cochineal Colouring</td>
<td>2012</td>
<td></td>
</tr>
<tr>
<td>10</td>
<td>Manufacturing of Monosodium Glutamate (MSG) Using Modified Microorganism</td>
<td>2014</td>
<td></td>
</tr>
<tr>
<td>11</td>
<td>Usage of PSH-P Hormone (Swine Brain) As Livestock Enhancer</td>
<td>1995</td>
<td>Manufacturing and Processing Technology</td>
</tr>
<tr>
<td>12</td>
<td>Application of Electrical Stunning in Cow Slaughtering</td>
<td>1981</td>
<td></td>
</tr>
<tr>
<td>13</td>
<td>Process of Alcohol Fermentation</td>
<td>1984</td>
<td></td>
</tr>
<tr>
<td>14</td>
<td>Slaughtering Method Using Electrical Stunning</td>
<td>2005</td>
<td></td>
</tr>
<tr>
<td>15</td>
<td>Slaughter Using Mechanical Knife</td>
<td>2000</td>
<td></td>
</tr>
</tbody>
</table>


Table 1 shows a few examples of fatwa published by fatwa institutions in Malaysia encompassing three main fields in science and technology. The three main fields are science and technology, food science and biotechnology, and also manufacturing and processing technology. From the observation, official fatwas regarding science and technology have been declared since early 1970s until present.

Azhar et al. (2016) stated that fatwa in contemporary fiqh issues clearly visualises the influence and effect of science and technology to development of Islamic laws. The development includes all aspects of Muslim community life nowadays. Therefore, in the context of current fatwa extraction, detailed informations on the mechanisms and modus operandi of a problem and a problem on science and technology are dire to be understood in the early process of contemporary fatwa extraction.

Mufti in Islam is appointed according to their qualification in field of religion especially in Syaria studies (al-Nawawi, 1998; al-Hassun, 1999; Khairuldin, 2016). As mufti and the committee are basically appointed based on their original qualification in field of Syaria studies, there is an obstacle for them to produce fatwa in the field of science and technology. This is because; the scope and progress of science and technology field sometimes cannot be accessed.
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by mufti through his qualification. This is the biggest challenge to the state fatwa committee or MKI in the effort of solving current problems of Muslim community.

Realising the fact, the strengthening of fatwa institution in Malaysia should be executed so that there would be no obstacle in solving problems of Muslim community including problems regarding science and technology. There should be at least three solving measures done by fatwa institution in Malaysia to solve these problems.

First, the establishment of fatwa methodology which is oriented to contemporary fiqh approach. The establishment is done to seek solution for the current issues through a new framework. The methodology of contemporary fatwa fiqh is formed through approach that can be accommodated to change of current community including a focus to maqasid al-shari‘ah, siyasa al-shari‘iyyah and maslahah. Besides that, studies of contemporary fatwa fiqh are also supported by studies in other fields such as science and technology.

Laws and fatwa in Islam are divided into two parts. First, a fixed and unchanged law eventhough there is a change of current and local reality. Second, law and fatwa of changing branches to preserve human benefits and Muslim community lifestyle (al-Sayis, 1970). Changes including the field of science and technology become a complement to fulfil the need and reality of human beings which always changes and develops with the evolving time (al-Zuhayli, 2001).

In Malaysia, structured steps have been established by fatwa institution in building a methodology more aligned with the changing time (Rosele, 2016). Indeed, application of contemporary fiqh in fatwa determination in Malaysia has been agreed by most of the muftis and fatwa committees (Zuhdi, 2016). Hence, the strengthening in methodology of contemporary fatwa will be able to handle problems of fatwa matters which is always evolving nowadays.

Second, the execution of group fatwa discussion (Fatwa Jama‘iyyah). Fatwa jama‘iyyah is a form of fatwa production after a discussion has been performed between academicians concerning a current issue (‘Abd al-Majid Muhammad, 2005; Khalid Husayn al-Khalid, 2008). According to Huda Muhammad Hasan Hilal (2011), fatwa jama‘iyyah is opened to a discussion in a knowledge scope or integration of various disciplines of knowledge and expertises in different fields. It includes discussion in the science and technology field which requires the involvement of scholars from all walks of academic background.

As stated before, mufti and fatwa committee members in Malaysia are usually appointed from scholars specialising in Syaria studies. Therefore, to face the problems of science and technology nowadays, fatwa institution in Malaysia has stepped forward in producing fatwa collectively as allocated in fatwa enactment throughout the whole Malaysia. Indeed, at the national level, conference of MKI committees also discuss the fatwa collectively (Buang, 2016; Hussain, 2003).

The effect of collective fatwa execution is that it leads to a more verified and authorised fatwa (Hussain, 2013; Muhammad, 1997; Khairuldin et al., 2018). Besides that, collective fatwa execution would avoid mistakes due to ignorance of the issues which are out of reach of mufti and fatwa committee (Khairuldin et al., 2016). Fatwa institution in Malaysia also executes fatwa collectively in a continuous manner so that each current problem especially in the field of science and technology, can be resolved.

Third, by inviting field expertises in doing early research in the field of science and technology. This is the most important step for fatwa institution to face challenges in the field of science and technology. Besides organising group and collective discussion, fatwa institution in Malaysia also invites and appoints field expertises to perform specific studies. Subri dan Zulkiple (2016), explained that Conference of MKI Committee as an example, does invite field
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expertises before any making any decision of fatwa especially in the issues which cannot be solved by original members in the fatwa committee.

The practice performed by fatwa institution in Malaysia can be considered as a smart collaboration to handle contemporary issues (Asni & Sulong, 2017). This smart collaboration involves many parties and experts from Malaysia or outsiders especially researchers in Institution of Higher Education and research centres. This collaboration would strengthen the findings and studies to the problems not in the expertise of mufti and fatwa committee (Rosele, 2013).

Moreover, to improve the fatwa research in the contemporary issues of science and technology, there is also a suggestion that the muftis and permanent committee members are appointed from them who are experts including individuals possessing Doctorate degree (Buang, 2016). These steps guarantee that the produced fatwa will be more accurate and aligned with Syaria requirement.

Figure 1 below clarifies the main solving measures to the challenges of fatwa institution in Malaysia in facing the progress of science and technology.

Figure 1 explains the execution of the steps done by fatwa institution in in Malaysia to solve current problems including the progress of science and technology. Those three main steps are establishment of contemporary fatwa methodology, execution of collective fatwa discussion and appointment of field expertises. As a result, problems regarding the progress of science and technology can be solved. Indeed, the produced fatwa becomes more trusted and authorised through the view of Muslim community in Malaysia.

4. CONCLUSION
As a conclusion, today’s fatwa in contemporary issues involving science and technology are essential matters to Muslim community. These issues will not halt, but in fact it will increase more in the future. Therefore, to guarantee the Muslim community in Malaysia, the framework and management of fatwa should be relevant and get along with the revolving time. Although the efforts done are adequate for the time being, improvement to fatwa institution in Malaysia should be performed continuously so that all challenges faced, whether in the field of science and technology or other fields, can be resolved.

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