

The Use of Qawl Muktamad (Final Opinion) in Syafi'i School in the Fatwas: The Analysis of the Fatwa Committee of Negeri Sembilan

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To Link this Article: <http://dx.doi.org/10.6007/IJARBS/v10-i9/7891> DOI:10.6007/IJARBS/v10-i9/7891

Published Date: 28 September 2020

Abstract

Syafi'i school is the main school practiced by the Muslim community in Malaysia. The practice of Mazhab Syafi'i not only involves individual practice, but the final opinion of Syafi'i School is recognized as a priority view in the enactment of Islamic law throughout Malaysia except Perlis. The question is, does the use of the final opinion of Syafi'i School apply in all fatwas? Or a mixture of views is also used in determining the fatwa? To answer the question, this study tries to analyze the use of the final opinion of Syafi'i school in fatwas decided by the Fatwa Committee of Negeri Sembilan (JKFNS). This paper uses the documentation method as a data collection method. The fatwas analyzed are a total of 18 fatwas from the scope of worship only. This is because the fatwa of worship is the fatwa most decided by JKFNS. The data were then analyzed using content analysis methods. The study found that JKFNS prioritizes the qawl muktamad (final opinion) of the Syafi'i School in determining its fatwa even though there are some fatwas that are decided based on the external views of the Syafi'i school.

Keywords: Qawl Muktamad, Final Opinion, Syafi'i Scholl, Negeri Sembilan, Fatwas.

Introduction

Islam is the official religion practiced in Malaysia. Islam has long been established in Malaysia. There are many theories about the advent of Islam in the archipelago that have been discussed by scholars since the 1960s (Noor, 2011: 30). Islam believed to have reached the archipelago in the eleventh century through preachers from Parsi, India and Arabian (Ahmad, 2007: 41).

Since the beginning of the advent of Islam in the archipelago, the Syafi'i school is the earliest sect introduced and has firmly established (Majid, 2003: 3). The development and establishment of the Syafi'i School in this country is in line with the development of Islam in the region as a result of the efforts of the missionaries who came here and this is a history to be proud of because it has changed the region to the Islamic region ('Abdullah & Jihatea, 2007: 104).

In addition, the Syafi'i School has fully mastered the field of law and practice for the whole archipelago from the beginning of the advent of Islam until under the Kingdom of Melaka which inherited the power of Islamic governments in the archipelago before that and the same thing happened under the influence of Islamic governments in the archipelago after that (Majid, 2007: 6).

Although the Syafi'i school is the main school in the determination of law in Malaysia, not all states practice the Syafi'i school in their enactment. In Malaysia, the existence of different methodologies in deducing fatwas and differences in these methodologies can be seen in the enactment provisions between the state of Perlis and other states (Rosele et al., 2013). According to 'Abdullah and Jihatea (2007), all states in Malaysia adopt the Syafi'i School in deciding state fatwas except the Perlis State Shariah Committee based on *Ahli al-Sunnah wa al-Jama'ah* without being bound by any school. and the source of the law is also different.

“The Negeri Sembilan Fatwa Committee (JKFNS) also adopted the Syafi'i sect in their fatwa. This is clearly illustrated in the Administration of the Religion of Islam (Negeri Sembilan) Enactment 2003 as stated in section 54:

“(1) In issuing any fatwa under section 49, or certifying an opinion under section 53, the Fatwa Committee shall generally follow the final opinion (qawl muktamad) Syafi'i school.

(2) If the Fatwa Committee is of the opinion that by following the final opinion of the Syafi'i school, a situation contrary to the public interest will result, the Fatwa Committee may follow the final opinion of the Hanafi, Maliki or Hanbali Schools.

(3) If the Fatwa Committee is of the opinion that none of the final opinion of the four sects can be followed without leading to a situation contrary to the public interest, the Fatwa Committee may make the fatwa according to *ijtihad* without being bound by the final opinion of any of the four sects.”

As stated in the previous section 54, the final opinion of the Syafi'i school is the main view that prioritizes fatwa before turning to the views in other sects according to public interest. The question is, is this enactment practiced by JKFNs in deciding their fatwa? To answer this question, this study analyzes the use of the *Qawl Muktamad* (final opinion) of Syafi'i School in worship fatwas by the Fatwa Committee of Negeri Sembilan.

Methodology

This study uses the method of document analysis to get a clear picture of the position of the final opinion of Syafi'i School in the fatwas of JKFNs. The data were taken from a collection of JKFNs fatwas from 1994 to 2015. Only 18 fatwas involving public worship were analyzed out of a total of 79 fatwas. This document analysis method is also used in collecting data related to the concept of the final opinion of Syafi'i School. According to Jasmi (2012), the method of

analyzing this document is used to obtain clear information in understanding a concept, issue and problem about a phenomenon that occurs.

Next, the results of the data collection will be analyzed using content analysis methods. Content analysis is used to examine and explain the interpretations contained in the document. According to Krippendorff (2004: 18) and Yusof (2004: 34), content analysis is a research technique by making systematic and objective conclusions through document-shaped data. While Marican (2005: 170) and Lebar (2009: 146) define content analysis as an explanation that systematically examines a textual content in the form of text. This coincides with the data collected from the fatwas which are then analyzed to see the use of the final opinion of the Syafi'i School.

Findings

This study divides the findings of the study into two main discussions. First, the concept of the final opinion of the Syafi'i School. Second, the analysis of the use of the final opinion of the Syafi'i School in worship fatwas by the Negeri Sembilan Fatwa Committee.

Qawl Muktamad (Final Opinion) of Syafi'i School

Originally in the Syafi'i School, there is no specific use and meaning of the term for this final opinion ('Umar, 2008). Even the works of mutaqqaddim Mazhab Syafi'i also do not use this term. However, according to 'Umar (2008); al-Anṣari (d. 926H) was the first scholar to pioneer the use of this qawl muktamad (final opinion) around the 10th century AH. This is as quoted in his book entitled *Fatḥ al-Wahab ala Sharḥ Minhaj al-Ṭullab*. However, his disciple al-Haytami (d. 973H) was the first to give special meaning in terms of the qawl muktamad in the preface of the book *Tuḥfah al-Muḥtaj li Sharḥ al-Minhaj*.

The qawl muktamad on the side of Syafi'iyyah is the translated view and is the ijtiḥad of Imam al-Syafi'i (m. 204H) from all his views, or the views arising from his valid rules and proposals backing up to his sect and it is common to issue fatwas, punish and follow them for the followers of his sect (al-Zuhaili, 2010). From the source perspective, the qawl muktamad in the Syafi'i School can be categorized into two categories namely the qawl muktamad sourced from Imam al-Syafi'i (d. 204H) and the qawl muktamad sourced from Aṣḥab Syafi'i (Syafi'i's Scholar).

The qawl muktamad sourced from Imam al-Syafi'i (d. 204H) has two forms namely al-aẓhar and al-masyhūr. Among the books used as a reference to see the views of Imam al-Syafi'i (d. 204H) is the book of al-Umm. While the qawl muktamad sourced from Aṣḥab Syafi'i also has two forms namely al-aṣaḥ and al-saḥiḥ. According to the scholars, the qawl muktamad of among mutaqqaddimin is the opinion translated by al-Nawawi (d. 676H) and al-Rafi'i (m. 623H) (Sulaiman, 2008: 290). In addition, what Ibn Ḥajr (d. 973H) and al-Ramli (d. 1004H) agreed on problems that have never been discussed before them, then it is also considered as the qawl muktamad that they are from among the Contemporary Scholars of Syafi'i School (Ahmad, 2008: 39).

If there is a disagreement between al-Nawawi (d. 676H) and al-Rafi'i (d. 623H), then the view of al-Nawawi (d. 676H) comes first. It is also obligatory to issue a fatwa with all opinions from both (Ahmad, 2008: 39). When the views of al-Nawawi (d. 676H) collide with his views from

other sources of his writings then his book according to the final order in the school is al-Tahqiq, followed by al-Majmū 'Sharḥ al-Muhadhab, followed by al-Tanqih, followed by Rawdah al-Ṭalibin followed by Minhaj al-Ṭalibin, followed by al-Minhaj Sharḥ Ṣaḥiḥ Muslim and finally Taṣḥiḥ al-Tanbih (al-Saqaf, 2004: 73).

According to al-Saqaf (2004), the qawl muktamad sequence of the Syafi'i School is the view translated by Ibn Ḥajr (d. 973H) and al-Ramli (m. 1004H). Most Egyptian scholars adhere to the view expressed by al-Ramli (m. 1004H) in his book Nihayah al-Muḥtaj li Sharḥ al-Minhaj. This book has been read to almost four hundred Syafi'i scholars as well as streamlined and criticized by them. This book has reached the limit of mutawatir in the truth of the content of the Shafii School. For the scholars of Hadharamaut, Syam and Hijaz, the ultimate opinion is what was issued by Imam Ibn Ḥajr al-Haytami (d. 973H) through his book Tuhfah al-Muḥtaj li Sharḥ al-Minhaj.

These views in the Syafi'i School have been perfectly refined by al-Nawawi (d. 676H) and al-Rafi'i (m. 623H). Then his debates were further strengthened at the hands of Ibn Ḥajr (d. 973H) and al-Ramli (m. 1004H). So the scholars of muta'akhirin allowed their views to be used as fatwas. If there is a clash between the qawl muktamad of muta'akhirin which is a clash in the book of Nihayah and Tuḥfah on a problem that cannot be translated, then the final one in the school on the issue of fatwa is the view chosen by al-Anṣari (m. 926H) through his book Syarḥ al-Baḥjah al-Ṣaghir, then his book al-Manhaj wa Sharḥah. Next comes the opinion of al-Khatib al-Sharbini (d. 977H). Then what Aṣḥab al-Ḥawashi (ḥashiyah figures) chose (al-Saqaf, 2004: 73).

Therefore, in deciding the fatwa in the framework of the qawl muktamad of Syafi'i School, every fatwa institution should be concerned about this sequence. According to al-Kurdi (2011), if any mufti makes a fatwa by putting the qawl dhaif (weak opinion) ahead of qawl muktamad in Syafi'i School, then it is not allowed. This is because this weak opinion is the opposite of the qawl muktamad and everything that is contrary to the qawl muktamad is usually a shortcoming that needs to be left out. The obligation to do good deeds with this poor qawl is only for oneself and not spread among the general public.

The Analysis of the Use of the qawl muktamad of the Syafi'i School in the Fatwas of Worship by the Fatwa Committee of Negeri Sembilan

Overall, there are 12 fatwas whose decisions are decided according to the *qawl muktamad* of Shafii School. Of the 12 fatwas, a total of four fatwas were gazetted. The remaining eight pieces are from fatwas that have not been gazetted.

Next, there are two fatwas that are decided by taking the opinion of Imam al-Syafi'i (d. 204H) and al-Nawawi (m. 676H). The decision of the fatwa related to "Money Loan Scheme From Cooperatives And The Like To Perform Fardu Hajj Or Umrah" is a decision taken based on the opinion of Imam al-Shafii (m. 204H). The opinion of al-Nawawi (d. 676H) is taken and accepted in matters related to "Jama 'Prayer for Undergoing the Treatment of Chronic Diseases in Government / Private Hospitals" is a decision taken based on opinion.

In addition, there is a fatwa whose decision is based on the opinion in the Hanafi School which is related to "Giving Zakat to Non-Muslims for the Purpose of Da'wah".

However, there are three fatwas whose sentence was decided based on the *ijtihad* of contemporary scholars and the fatwa committee. This is because the questions raised involve the latest issues. Acceptance of opinions other than the *qawl muktamad* of the Syafi'i School by choosing the opinions of the other three secular schools, namely the Hanafi School or Maliki or Hanbali on an issue is to safeguard the welfare of society. This benefit is determined by the Fatwa Committee Member during the *muzakarah* which takes place once a month¹

Discussion

Based on the analysis conducted, as many as 66% of the fatwa results are sourced from the *qawl muktamad* of the Syafi'i School. While as much as 11% are the opinions of Imam al-Syafi'i (d. 204H) and al-Nawawi (m. 676H). Next, the remaining 17% is the current *ijtihad* which consists of the opinion of contemporary scholars and the fatwa committee. The remaining 6% is a fatwa according to the Hanafi School.

It is clear here that the Negeri Sembilan Fatwa Committee performs their duties in accordance with the provisions enshrined in the Administration of the Religion of Islam (Negeri Sembilan) Enactment 2003, Section 54 (1). Every fatwa decision issued must be sourced from the *qawl muktamad* of the Syafi'i School, then look at the *qawl muktamad* of other sects namely Hanafi, Maliki and Hanbali. Even the fatwa committee is allowed to do *ijtihad* if there is no decision from these four *mu'tabar* sects.

The attachment of the fatwa institution to the *qawl muktamad* of the Syafi'i School and still adopting the opinion of other schools of *fiqh* in issuing fatwa decisions is an openness approach that gives birth to the nature of tolerance and harmony in Islam. This proves that Islam is a religion with the concept of *Rahmatan lil-'alamin* (A mercy to all creation) and is suitable to be practiced from time to time.

Conclusion

In conclusion, the results were analyzed in all 18 fatwas, so there are some six fatwas that do not follow the *qawl muktamad* of the Syafi'i School. It can be concluded that there are a total of 12 fatwas submitted sourced from the *qawl muktamad* of the Syafi'i School, two fatwas not sourced from the final *qawl* and four fatwas resulting from *ijtihad*.

Acknowledgement

Special thanks go to the Center for Research Excellence and Incubation Management (CREIM), Universiti Sultan Zainal Abidin for supporting this research.

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