

The Role of Fatwa as A Medium for Information Dissemination in Tackling Muslim Community's Religious Issues in Terengganu

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Abstract: Information and the way it is channelled are important in influencing the need of any organization or society. The *fatwa* institution must play the role of an effective information disseminator to ensure that society's awareness can be realised impeccably. This is because the institution of *fatwa* is one of the most important media in the society to safeguard their actions against deviations from true Islamic doctrines. Society always faces a changing environment from the point of societal changes, politics and economy. One reason for this is that some issues are new and did not exist previously. Realising this situation, discussion on these issues should duly be handled by those who are qualified in the field concerned. How is the role of *fatwa*, in disseminating information to tackle issues faced by the Muslim society in Malaysia specifically in Terengganu, being played? Is there any specific procedure in preparing, producing and disseminating a *fatwa* to distribute the information? This article therefore shall look into the details of how far the role of *fatwa* is being played as an information conveyor in tackling issues faced by the Muslim society in Terengganu. The main methods employed in this study were field study and analysis on previous literatures. The obtained data were treated and analysed qualitatively. This study found that *fatwa* is considered a very important medium for information dissemination in confronting issues concerning religion among the Muslims in Terengganu.

Key words: *Fatwa* • Information • Dissemination • Religious Issues • Terengganu

INTRODUCTION

Man keeps facing various problems, current needs and situations. A reason for this is that some of the problems are considered different from those in preceding ages. Realising this situation, information on solution to the problems should be disseminated from the source of authority and those qualified in the field. What is a good medium for effective distribution of information in facing Muslim society's issues? The effort to realise Islam as a daily practice in the life of Muslims in Malaysia particularly in Terengganu is quite a challenge to tackle. Hence, this article shall look into detail the extent of the role that *fatwa* plays as a medium of dissemination. The main method used in this research was field study and analysis on previous literatures. Obtained data were treated and analysed qualitatively.

Fatwa Management in Terengganu: *Fatwa* management in Malaysia is administered by State Mufti Departments as an effort to advance the Islamic knowledge especially with regards to Islamic verdicts (*hukum*). One of them is the Jabatan Mufti Negeri Terengganu (JMNT) (Terengganu State Mufti Department) (formerly known as Jabatan Hal Ehwal Agama Terengganu). This article shall look into the development and running of JMNT, its organisational and administrative management and in the management of *fatwa* issuance.

It could not be ascertained as to when *fatwa* management in Terengganu started. However, according to historical sources of the State of Terengganu, titles such as "Syaikh al-'Ulama" or "Mufti" held by Syaikh Abdul Malik b. Abdullah who was more famously known as Tok Pulau Manis existed. Not only was he a close associate to the Sultan at that time, who was Sultan

Zainal Abidin I (1725-1734), but he was also close to the Palace dignitaries who happened to be his students. Tok Pulau Manis was responsible for issuance of *fatwas* on Islamic beliefs and verdicts [1].

According to a source from JMNT, an official appointment of Mufti occurred as early as during the reign of Sultan Omar (1839-1876). Syeikh Abdul Kadir Bukit Bayas was, then, officially appointed as the Mufti, apart from being the teacher to the Sultan. He held the office of Mufti from 1864 until 1870. As Mufti and advisor to the Sultan, Syeikh Abdul Kadir Bukit Bayas gave much guidance to ensure government policies were in line with Islam [2].

Also during the rule of Sultan Omar, an *'alim* of Arab origin, Syed Muhammad b. Zainal Abidin al-Idrus whose nickname was Tok Ku Tuan Besar was conferred with the honorary title of Syeikh al-Ulama carrying the title "Tuan Besar Paduka Raja". He was appointed as the Mufti of Terengganu beginning 1870 until 1878 [3]. Since then until now, the office of Mufti was held by many Islamic scholars beginning with Syeikh Abdul Kadir Bukit Bayas. The history of JMNT establishment can be viewed from two situations: before and after JMNT was separated from Jabatan Hal Ehwal Agama Islam Terengganu (Department of Islamic Religious Affairs of Terengganu).

Administration and Organisation: The organisation and administration of JMNT is headed by a Mufti who is assisted by staff from the management and professional group and the support group. In Terengganu, the Mufti is aided by an officer, the Deputy Mufti. The support staffs consist of various positions which act to assist in departmental administration.

The function of JMNT is to carry out duties as determined by the Majlis Agama Islam dan Adat Melayu (The Council of Islamic Religion and Malay Custom) known as the Majlis which is the religious authority in the State of Terengganu. JMNT's duty is to issue *fatwas* on behalf of the Majlis. For smooth operations concerning *fatwa*, the Majlis established a committee to advise itself on matters pertaining to *fatwas*. The committee is chaired by the Mufti and filled by members not from among the permanent staff[4].

The Islamic Law Enactment (Terengganu) 1955, 46(1) states that the appointment of Mufti and his Deputy is under the jurisdiction of His Highness the Sultan who, on advice from the Menteri Besar, may appoint a fit and proper person to the post [5].

In a section of the Enactment, it is also stated that the appointment of Mufti and Deputy Mufti must be published in the Gazette. Upon the commencement of this section, the person who is the Mufti and Deputy Mufti for the State of Terengganu immediately before the commencement of this section shall be deemed to have been appointed under this section as a Mufti and Deputy Mufti for the State of Terengganu and shall continue to hold such appointment [5].

The Enactment also provides that the State Fatwa Committee shall consist of the Mufti as Chairman, Deputy Mufti, no less than two Islamic scholars from the Majlis member named by the Majlis, no less than three persons and no more than five persons who are fit and proper who can be from among the Majlis members or not and an officer from JMNT appointed by the Majlis as Secretary. Five Committee Members shall be the quorum [6].

Upon the commencement of this section, any person who is a member of the Fatwa Committee for the State of Terengganu immediately before the commencement of this section shall be deemed to have been appointed under this section as a Fatwa Committee member for the State of Terengganu and shall continue to hold such appointment [7].

Subsection (3) does not apply for any person except the Mufti and Deputy Mufti who are members of the Committee mentioned in subsection (3) on his capacity. In addition, the Fatwa Committee can decide on any matter concerning its procedure and practice subject to the Enactment [8].

Furthermore, according to Article 8(1) of the Terengganu Islamic Affairs Administration Enactment 1422AH / 2001AD, Mufti is a member of the Majlis appointed by His Highness the Sultan [9]. In May 2006, the Terengganu State Department became the third state after Negeri Sembilan and Perak which made the position of the Mufti equally ranked with State Government Executive Council (Exco) members. Therefore, the Mufti of Terengganu shall receive all benefits accorded to an Exco including allowances, emolument and protocols [10].

Factors Leading to Fatwa Preparation and Issuance:

Practically, any *fatwa* is prepared or issued due to four factors, namely [11]:

- Queries from the public, government agencies and organisations.
- Directive from the Government
- Own Initiative

- Other factors such as spontaneous remark and answer to any conflict.

According to the Mufti and an officer of JMNT, queries, directives and own initiatives are the main factors leading to the preparation and issuance of *fatwa*.

The Process of Fatwa Enactment and Gazettement:

On the order of the Sultan or on the demand of the Fatwa Committee or at a request by any party through a letter addressed to the Mufti, the Fatwa Committee can prepare a *fatwa* on any outstanding or controversial issue concerning its Shari'ah verdict [12].

At the Mufti Department Level: Queries made through any channel and any other ways as explained above will be answered by JMNT. According to the standard procedure at JMNT, all asked questions will be answered after going through a filtering stage. The filtering stage is necessary since there is a possibility of question which does not concern with *hukum* and does not need for an answer or the questions contain elements of sensitivity [13].

At the Fatwa Committee Level: Before the State Fatwa Committee makes a *fatwa*, the Mufti can instruct that a study or research be conducted as per directive and a working paper must be prepared. The Mufti calls all members of the Fatwa Committee for a meeting for the purpose of discussing the *fatwa* [14].

Fatwa Gazettement: After the *fatwa* has been prepared by the State Fatwa Committee, the Mufti, or a party acting on his behalf or on behalf of the State Fatwa Committee shall table the *fatwa* to the Majlis. The Majlis then holds the privilege to decide on the *fatwa* after thorough consideration and to make recommendations to His Majesty the Sultan to obtain His royal assent for gazettement of the *fatwa* [15]. Recommendations made under the subsection (4) shall be enclosed with a memorandum of explanation and comment from the Majlis should the Majlis be of the opinion that the explanation and comment are necessary [16].

When the *fatwa* get the royal consent from the Sultan, the Majlis shall inform the State Government of the *fatwa* and the notice shall be transmitted in the Gazette. Any *fatwa* announced in the Gazette must be accompanied with a statement that the *fatwa* was made under the Section. A *fatwa* must be written in the national language in versions of Jawi (Arabic letters) and Roman scripts. However, any statement made by the Fatwa

Committee cannot be considered as *fatwa* except if the statement is written in the Gazette according to Subsection (6) [17].

Amendment, Modification and Revocation of Fatwa:

In Section 52(1), a provision is given to the Fatwa Committee to amend, modify or revoke any *fatwa* which has been issued in the Gazette under the Enactment or previous enactments. Any *fatwa* amendment, revision or revocation must be taken as a *fatwa* and provisions under Section 50, except subsection 50(7) shall therefore apply. At the same time, any amendment, modification or revocation of the *fatwa* must be accompanied with a statement that the *fatwa* is made under sub-section (1)[18].

The Terengganu Enactment explicitly mentions that any decision made on any arising issue must be referred back to the Fatwa Committee [19]. This is because Enactment 25(5) states that:

“If in any matter concerning Hukum Syara' the Fatwa Committee is not able to arrive at a decision, the matter shall be referred to the Majlis for its views which shall subsequently be referred back to the Fatwa Committee for decision”.

References for Fatwa Dissemination:

To ensure *fatwa* plays its role in disseminating religious information to the Muslim community in Terengganu, JMNT has decided upon a specific method for reference sources of *fatwa*. The method for *fatwa* distribution and management coordinated by JMNT is considered in line with what was proposed by Ibn al-Salah who stressed that there are four types of *mufti* who adheres to a *mazhab* of any *imam mujtahid* [20]:

- Mufti who does not do *taqlid* to the *mazhab* of his *imam* with a reason that he carries the characteristics of and is capable of mastering the knowledge fittingly acquired by a *mujtahid mutlaq*. However, he is also known as a *mufti* with *mazhab* because his *ijtihad* is guided by the methodology of a particular *imam* and spread his views.
- *Mufti* who is capable of performing *ijtihad* within the scope of the *mazhab* of his *imam*. He is able to expound his opinion based on the daleel and method of his *imam*. He however does not fulfil the criteria for a *mujtahid mutlaq* due to some inadequacy in terms of knowledge and the tools required for *mujtahid mutlaq*. This group of *muftis* is called *Ashab al-Wujuh wa al-Turuq fi al-Madhab*.

- *Mufti* who does not fulfil the criteria of the above-mentioned *muftis* due to his lack of expertise in deriving and making *istinbat* of a *hukum*. In other words, even though he is *faqih* in the *mazhab* of his imam and is capable of explaining the *daleel* of his *mazhab*, he is not competent enough in *usul al-fiqh* or other knowledge which can assist him in making *ijtihad*.
- *Mufti* who is only capable of answering problems by memorizing the opinions and *fatwas* of his *mazhab* and he also can quote and understand each problem deliberated in the *mazhab* books of his imam, be it clear or complicated, but he is not capable of explaining the *daleel* and all forms of its *qiyas*.

The way to identify *qawl muktamad* of the Shafi'i *mazhab* in *fatwas* in Terengganu is that [21]:

- It is evidenced that the opinion is final.
- The opinion emerged later than its opposite opinion.
- The *fuqaha'* of the *mazhab* made it as the basis of *tafri'*.
- It is stated that opposite opinion is wrong.
- The opinion is in accordance with other *fiqh mazhab*.

Qawl muktamad in the Shafi'i *mazhab* can be categorised into two, namely [22]:

Qawl Muktamad Imam Shafi'i: *Qawl muktamad* which originates from Imam Shafi'i has two forms:

- *Qawl muktamad* which is known as *al-mashhur*, the opposite opinion of which is considered weak.
- *Qawl muktamad* which is known as *al-azhar*, the opposite opinion of which is considered strong or strongest.

Qawl Muktamad of Mazhab Shafi'i Followers: *Qawl muktamad* which is sourced from the followers of the Shafi'i *mazhab* also has two forms:

- *Qawl muktamad* which is known as *al-sahih*, the opposite opinion of which is considered weak.
- *Qawl muktamad* which is known as *al-asah*, the opposite opinion of which is considered strong or strongest [23].

Both categories of *qawl muktamad* sit on the same hierarchy. The Majlis and the Court must make them as references when deciding a *fatwa* or verdict. Weak *qawl* meanwhile is for personal practice only [24].

Imam Nawawi, a renowned Shafi'i *mazhab* scholar, also held the view against *qawl muktamad* of the Shafi'i *mazhab* in several *fiqh* problems. Two books used as references in this article namely *Minhaj al-Talibin* and *Rawdah al-Talibin* which are two great works of Imam Nawawi, should be studied by parties involved in making *fatwas* since the two books were written specifically for *muftis*. The books not only contain *qawl muktamad* of Shafi'i *mazhab* but also include *qawl* which are not *muktamad* and also personal opinions of Imam Nawawi [25].

Hence, in the process of issuing *fatwa* on zakat, JMNT used reference sources guided by the Shafi'i *mazhab* as found in the books. Such use is backed by the provisions in the Administration of Muslim Law Enactment 1955. Usually in issuing *fatwas* either in the form of gazette or not, the Fatwa Committee and the Mufti himself refer to the Shafi'i *mazhab* [26]. This is comprehensible considering that it is outlined in the Administration of Muslim Law Enactment 1955 (1357AH) (Enactment No. 4/1955), Section 21(1)[27]:

“In making and issuing any ruling in manner hereinbefore provided the Majlis or the Legal committee shall ordinarily follow the orthodox tenets of the Shafeite sect”.

The above enactment provides the legal provision of the Shafi'i *mazhab* as the official *mazhab* in the *fatwa* institution of Terengganu. Although Shafi'i views are normally the doctrines which bind *fatwa* practice in Terengganu, there is however a provision which permits *fatwa* or derivation of Islamic verdicts being done based on other *mazhabs*. Such permission is given if the opinion of the Shafi'i *mazhab* in the issue goes against public interest. For example, Section 26(1) of the Administration of Islamic Religious Affairs (Terengganu) Enactment (1986) which gives the provision that if the Fatwa Committee is of the opinion that by following *qawl muktamad* of the Shafi'i *mazhab* a situation against public interest will occur, the Committee is allowed to follow *qawl mu'tamad* of Hanafi, Maliki and Hanbali *mazhabs*. The Enactment states [28]:

“In making and issuing any *fatwa* or ruling on any matter relating to Hukum Syara' in accordance with section 25, the Fatwa Committee shall be guided by the Mazhab Shafi'i, except that in the interests and for the welfare of the Muslim community, it may issue the *fatwa* or ruling on the guidance of any of the four Mazhabs or any other Mazhab considered suitable by the Fatwa Committee”.

In certain circumstances, if the Fatwa Committee is of the opinion that no *qawl muktamad* of the four *mazhabs* can be followed without going against public interest (*maslahah*), the Committee can issue a *fatwa* via an *ijtihad* without being confined by *qawl muktamad* from any of the four *mazhabs* [29].

The above enactment gives the Mufti and the Fatwa Committee a freedom to give opinions without being restricted to any *mazhab* should all opinions in the *mazhabs* go against public *maslahah*. Concerning following the opinions of Shafi'i *mazhab*, the enactment does not specify it as a specific final opinion. In fact, it even gives flexibility to the Mufti and the Fatwa Committee to rely on *mazhabs* other than the four *mazhabs*.

The Process and Forms of Fatwa Distribution:

The procedure or process of preparation and distribution of *fatwa* in Terengganu are outlined in the State Government Enactment. Nevertheless, from the angle of its practice, if the *fatwa* is an answer agreed at the Fatwa Committee level without having the consent of the Sultan, it is therefore not gazetted but only minuted in the meeting. The same goes with *fatwas* which are answers to questions posed to the Mufti on personal basis be it verbally or written. *Fatwas* issued and disseminated by JMNT can be classified into the following three forms [30]:

Gazetted Fatwa: What is meant by gazetted *fatwa* is one that has been decided upon by the Mufti or the Fatwa Committee after getting the consent from the Sultan and gazetted through the government gazette. A *fatwa* which has been gazetted becomes part of the law and all Muslims in the State are bound by it. *Fatwas* in this category is considered authoritative and can be distributed to the public and used for official purposes or used in the Court [31].

Fatwa which is agreed and decided upon by the Mufti or the State Fatwa Committee but not gazetted. Not all issues or questions posed to the Fatwa Committee or Mufti are gazetted to make them part of the state law. However, a *fatwa* is rendered a government document and is subject to the rules relating to it if the *fatwa* is officially asked for through a letter or an enquiry. Some *fatwas* are considered confidential and need not be revealed to the public. *Fatwas* in this category are also considered official and can be conveyed to the public but part of them is considered confidential which needs not be disseminated to the mass.

Fatwa Personally Issued by the Mufti: What is meant by this *fatwa* category takes the form of verbal or written answers by the Mufti which he gives personally immediately or after some period of time to the parties who enquire and ask for a *fatwa* on the religious issue. *Fatwas* in this category are not considered official especially if they are given verbally.

The Role of *Fatwa* as Disseminator of Religious Information.

The Mufti Department of the State of Terengganu is deemed successful in publishing *fatwas* decided by the Mufti and the Fatwa Committee in various forms of publication. These include Gazettes, *fatwa* collection books [32], magazines [33], pamphlets and circulars to villages.

In the author's observation, JMNT does classify *fatwa* collection books according to the disciplines of *fatwa* but some of them are not systematically arranged according to the Islamic discipline. Some *fatwa* collection books are haphazardly arranged in a number of pages, not orderly arranged under a specific topic or issue. Among the disciplines included in the books are as follows:

- *Usuluddin* which covers faith to God, prophethood, matters of the unseen and Judgment Day among others.
- Shari'ah which involves rituals of worship, *mu'amalat*, marriage, crime and others.
- *Adab* (Islamic etiquettes) and Social Etiquettes which involve daily practice of the society, ceremonies and traditions of the society and so on.

Fatwas issued by JMNT mentioned above normally are intended for distribution to the general public. Nevertheless, some *fatwas* cannot be distributed due to reasons such as that the *fatwa* involves administrative matters or societal sensitivities. Dissemination of *fatwa* is one of JMNT's strategies to impart knowledge on religion by means of distribution of published materials including using the internet such as e-*Fatwa* and others [34].

Fatwa distribution activities by JMNT were very encouraging because most of the printed materials containing the Mufti's *fatwas* were given freely to the society. For example, The Terengganu Department of Islamic Affairs (1971), published "*Fatwa-Fatwa Mufti Kerajaan Terengganu: Dari Tahun Hijrah 1372-1389 Bersamaan Tahun 1953-1975*". The Mufti then was Syed Yusuf b. 'Ali al-Zawawi.

The same went with “*Fatwa Mufti*” which was seen to contribute much to the spread of religious information to the Muslim community when its first edition in 1986 amounted to 1000 copies, second print in 1987 totalled 5000 copies and its third issue in 2000 was 1000 copies. All the books were distributed freely to the public [35].

In 1998, JMNT published the book “*Himpunan Jawapan Kemusykilan-Kemusykilan Agama*”. Apart from that, there were books produced by the Terengganu Department of Religious Affairs (2000), “*Fatwa Mufti*”, printed by Percetakan Yayasan Islam Terengganu Sdn. Bhd., Kuala Kerengganu, the book “*Himpunan Jawapan Kemusykilan-Kemusykilan Agama*” published by the Council of Islamic Religion and Malay Custom of Terengganu in 1422AH/2001AD. Then, the Mufti was Engku Pangiran Arif DiRaja Dato’ Engku ‘Alwi b. Engku Ambak. There was also a book published by the Majlis in 2001 which was “*Himpunan Fatwa Mufti Negeri Terengganu*”.

Apart from books, Terengganu *fatwa* institutions also used newspapers as one of the media to spread information on religion to the Muslim community in Terengganu. The “*Warta Darul Iman*” gazette featured a question and answer column with the Mufti which ran from 2002 until 2004.

In an effort to bolster the Muslim community’s awareness towards *fatwas*, JMNT made the effort to strengthen the *fatwa* enforcement. From the angle of enforcement, the Mufti or JMNT is not duty-bound to enforce any *fatwa*. The Mufti and JMNT are assigned to give explanation of *hukum* and resolve religious issues raised by the community, government or organisations [36].

Nevertheless, only gazetted *fatwas* are binding on all Muslims residing in Terengganu as a religious doctrine. In matters concerning belief, practice and personal view, it is compulsory for them to adhere to and hold to the *fatwas* unless it is permitted by the Shari’ah to abandon them. Meanwhile, a *fatwa* shall be recognized by all Courts in the State of Terengganu concerning all matters stated within it [37].

In the context of gazetted *fatwa*, the Terengganu Enactment gives the provision that The Majlis on behalf of the State Government has the role of a party which can prosecute Muslims who violate the *fatwa* in a Shariah Court. The Majlis can declare actions to be taken at the Shari’ah Court on any book, recording or tape, letter, film and others that is found to contravene and violate the shari’ah law [38].

CONCLUSION

Based on the conducted study, the institution of *fatwa* is seen as playing an important role in disseminating Islamic *hukum* in Malaysia. In religious matters requiring *fatwa*, the public refers to the scholars or *ulema* especially those of authority such as the Mufti which is considered the highest ranking religious position in Terengganu to issue *fatwas*. Hence, *fatwa* is one of the media for information dissemination in tackling problems faced by the Muslim society in Terengganu. Thus, the Mufti is asked to solve issues faced by the community in official matters when there is a request from the government, organisation or the society to decide the Islamic verdict on the matter.

There have been efforts to provide channels for the public to voice out religious issues that they face such as in newspaper or magazine columns dedicated for religion, through letters, emails, personal appointment with the Mufti himself and so on. Besides, publications containing answers to religious queries are also available. *Fatwa* issuance can help the public to understand their religious concerns.

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