

## **Positivization of the Council of Indonesian Ulema's Halal Fatwa: Policy and Position in Indonesian Legislation**

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**Abstract:** Numerous studies have highlighted the significant role of the Council of Indonesian Ulema (MUI) in influencing the development of Islamic law in Indonesia. This has been achieved by integrating several of its legal fatwas into national legislation. However, few studies specifically address the positive impact of MUI's halal fatwas. Additionally, existing research has not thoroughly examined the strategies employed by this fatwa-issuing institution to promote its fatwas, particularly during the reform era. This article explores MUI's essential role and strategic policies during the Reform era in transforming its halal fatwas into state law, as well as the institution's position within Indonesian legislation. The data for this study are derived from official MUI publications, including the Basic Guidelines and Household Guidelines, the outcomes of National Conferences, the results of the Ijtima Ulama Fatwa Commission, the collection of MUI fatwas, and other sources. These data were collected from the Council of Indonesian Ulema's office, libraries, and other information providers. The collected data are then presented and analyzed using the theory of the positivization of Islamic law. This study demonstrates MUI's success and significance in converting its legal fatwas on halal products into state law. Furthermore, this article highlights MUI's crucial role in various regulatory legislations governing halal product assurance. The concept of fatwa positivization, as defined by Qodri Azizy, refers to the process by which MUI effectively integrates its legal fatwas into state law. MUI's approach could serve as one of the potential models or patterns for incorporating Islamic law into national legislation in Indonesia, amidst the ongoing debate on the adoption of Islamic law.

**Keywords:** MUI's halal fatwas; Positivization of Islamic law; Halal product guarantee.

### **Introduction**

The debates over the establishment of Islamic law in Indonesia is essentially an ancient one. However, it continues to be explored and debated to this day. Some organizations want Islamic law to be implemented in a legal-formal manner, whereas others want Islamic law to be applied substantively and reject its formal implementation. This was evident during the discussion between religious and secular nationalists at the start of independence (Najib, 2011). During the reform era, the debate can be seen in the fierce debate between the formalist group, fully supported by several puritanical Islamic religious organizations such as the Majelis Mujahidin Indonesia (MMI) and the Front Pembela Islam (FPI), and the substantialist group represented by inclusive. The formalists want the state to formally enforce Islamic law. In addition, they want the Jakarta Charter (*Piagam Jakarta*) from the 1945 Constitution reinstated. For them, fighting for the reinstatement of the Jakarta Charter is critical as a foundation and entry point into formally enforcing Islamic rule. The substantialist group, on the other hand, opposes the incorporation of the Jakarta Charter into the Republic of Indonesia's Constitution as well as the formalization of Islamic laws. They prefer to incorporate and implement Islamic substantive values into all existing legal regulations (Hosen, 2004; Najib, 2011).

In the middle of the discussion over how to enforce Islamic law in Indonesia, a discourse evolved on the translation of Islamic law into positive state legislation using the positivization technique. This discourse evolved as an alternate method in the midst of the formalist-substantialist argument over Islamic law's implementation in Indonesia. The emergence of this concept cannot be separated from a shift in the direction of Indonesia's national legal development, as stated in the 1999 State Policy Guidelines (GBHN), which established Islamic law as one of the raw materials for the formation of national law, alongside Western law and customary law. As a result, the discourse on the establishment and implementation of Islamic law. Indonesian Muslims took full use of this occasion to promote the implementation of Islamic Sharia as state law. In this occasion, the Council of Indonesian Ulema was among the Islamic religious institutions that reacted positively to the situation. MUI transformed its legal fatwas into a number of Indonesian legislation and regulations through a variety of policies and strategic approaches. This is seen in the modification of MUI fatwas in the fields of sharia economics, zakat, waqf, pornography and pornoaction, and, of course, halal products. In the instance of the latter, MUI was successful in pushing the creation of the Halal Product Guarantee Act while also incorporating its legal fatwas into legislation. Thus, MUI's halal fatwas are now part of the country's positive law.

A number of scholars have paid close attention to the debate over the creation and implementation of Islamic law in Indonesia. They investigated this subject from diverse angles in a number of academic papers. This can be observed in the works of Masruhan (2011), Purnomo (2013), Fitriyani and Laupe (2013), Syarif Maula (2014), Fauzan and Fata (2018), Sodiqin (2012), Itmam and Liyana (2019), and Ma'rifah (2019). These publications analyze the discourse around the establishment and implementation of Islamic law in Indonesia, as well as the numerous opportunities and challenges it encounters. Meanwhile, La Jamaa (2018), Salma Berlinti (2010), Atho Mudzhar (2013), and Panji Adam (2018) have all written on how MUI fatwas were transformed into state positive law. La Jamaa investigates the role of MUI in converting its fatwas into national law. While Berlinti, Mudzhar, and Adam investigate the positivization of MUI fatwas, particularly in the context of Sharia economics. Asrorun Ni'am Sholeh conducted the research that focused on the positivization of MUI's halal fatwa. However, his research is confined to MUI fatwas in the realm of medicine (Sholeh, 2018). Thus, there are few works or studies that focus on the positivization of MUI fatwas in the sphere of halal products. As a result, this essay aims to supplement previous research on the positivization of MUI fatwas. The article focuses on MUI's policies and strategic steps for incorporating halal fatwas into national law, as well as the fatwa institution's place in Indonesian laws. This article is particularly intriguing and essential in light of the ongoing discussion over the method that Muslims must employ in order to establish and implement Islamic rule in Indonesia.

## Literature Review

### Positivization of Islamic Law

Scholars frequently use a variety of terminology when discussing efforts to make Islamic law the positive law of the state. Fathurrahman Djamil, Wahiduddin Adams, and Jazuli, for example, use the term 'legislation of Islamic law' to describe the state's accommodation of Islamic law, whereas Abdul Ghani uses the term 'transformation of Islamic law'. Rifal Ka'bah, Abu Bakar, and Ali Razaqvi refer to the codification or compilation of Islamic law, whereas Bustanul Arifin refers to its institutionalization. Meanwhile, Yahya Harahap and Qodry Azizy utilize the term "positivization of Islamic law." Abdurrahman Wahid prefers the term formalization of Islamic law to refer to Islamic law that would be formally implemented in Indonesian society (Muslihun, 2018, p. 90).

All of these terms refer to the same idea or thought: efforts to formally incorporate Islamic law into the Indonesian state system. However, the author employs the word positivization of Islamic law, as used by A. Qodry Azizy. According to him, the positivization of Islamic law is a notion that refers to efforts to make Islamic law a positive state law that is carried out by updating the substance of Islamic law and turning it into legal language and fighting for it through state institutions (Azizy, 2004). The term "Islamic law" refers to a system of legal principles in Islam developed by scholars or mujtahids based on the sources

of Islamic teachings while also taking into account the actual realities that emerge and develop in society (Minhaji, 2010, p. 9). Thus, Islamic law, including legal fatwas, is the product of a dialogue between Islam's normative precepts and the actual realities that emerge and develop in society (Anwar, 2005, p. 27; Hidayati & Hidayatullah, 2021; Kaptein, 2000, p. 52). In this context, fatwa is part of Islamic law itself. However, the Islamic law that is to be transformed into positive state law is not Islamic law in the normative-textual sense, but Islamic law whose material or substance has been formulated in a modern way through legal language and fought for its enforceability through state institutions democratically (Azizy, 2004).

### **Existence of MUI**

The Council of Indonesian Ulama (MUI) is an Islamic religious organization that has a strong role and influence in coloring religious life in Indonesia (Hooker, 2003). It was formed on July 26, 1975 AD or coinciding with 17 Rajab 1395 Hijri (Interview with KH. Ali Yafie, Chairman of MUI (1998-2000), at His Home on September 10, 2016, 2016). The establishment of MUI was the result of a meeting of two desires and interests at once, namely the wishes of a number of Muslims who were symbiotic with the hopes of the New Order authorities. The Muslims wanted an institution or organization that could play a role in coordinating da'wah activities, while the New Order authorities expected an institution that functioned to gather the ulama to be invited to succeed in development (Mudzhar, 2013; Noer, 1983). However, a number of people considered that the establishment of the Council of Indonesian Ulama was more initiated and initiated by the government with the aim of channeling the aspirations and interests of the ruler (Hooker, 2003; Ichwan, 2013; Mudzhar, 2013). Therefore, MUI during the New Order era mostly voiced the government's interests so that it was often referred to as a "semi-government" organization whose task was to translate government policies and interests to Muslims (Hosen, 2004; Ichwan, 2005; Sirry, 2013).

However, the Indonesian reformation in 1998 prompted the Council of Indonesian Ulama (MUI) to reform itself and implement a number of modifications. For example, at the start of the reformation, MUI shifted its organizing concept from Pancasila to Islam (MUI Basic Guidelines, 2000). MUI's service orientation has evolved from supporting government programs to prioritizing people's interests (Hasyim, 2011; Ichwan, 2013). With a number of policy and attitude changes, MUI appears to be attempting to establish itself as an organization representing the interests of Indonesian Muslims. This shift in MUI's mindset and philosophy has proven to be effective in increasing the organization's independence in dealing with the state (Nasir, 2014), productivity in issuing legal fatwas, and ability to play a more major role in fighting for the ummah's interests. However, this does not imply that MUI must deal with the government or the state (Interview with KH. Ali Yafie, Chairman of MUI (1998-2000), at His Home on September 10, 2016, 2016). In this case, MUI's alignment appears to be more pro-Muslim, as opposed to the New Order era, when it appeared to be the government's spokesperson. However, this fatwa institution continues to seek positive relations with the government (Hakim et al., 2023).

### **MUI's Halal Fatwa**

MUI is one of the Islamic religious organizations that has great concern for Indonesian Muslims in carrying out their religious teachings. This, among others, is realized in the form of providing guidance in consuming food, drinks, medicines, cosmetics and other products that are widely circulated in the market. MUI wants that the products consumed or used by Muslims can be guaranteed purity and halalness (Anam & Sulaeman, 2024; Azwar & Rinaldi, 2024).

MUI's great attention to the halalness of food, beverages, and medicines is at least motivated by two things: first, the fact that there are still a number of products that exist in the middle of society or circulating in the market that are still doubtful of their sanctity and halalness; and second, the desire for the Muslim community to be able to consume products that are guaranteed of their sanctity and halalness. Based on these two things, since its establishment in 1975 until now, MUI has issued many legal fatwas related to the sanctity and halalness of food, drinks or other products that are in the middle of society or circulating in the market (Deuraseh & Asli, 2022). Thus, MUI halal fatwa are legal fatwas issued by MUI related to the sanctity and halalness of an object, goods, or products consumed or used by the community. It includes

food products, drinks, medicines and cosmetics (Luthviati & Jenvitchuwong, 2021; Mashudi, 2015; Maulana et al., 2022).

In carrying out its tasks and functions, MUI collaborates with the Institute for Food, Drugs, and Cosmetics (LP POM) MUI, which was founded by the government alongside MUI in 1989. This institution is in charge of assessing the content of each product that MUI wishes to include in its legal fatwa. Furthermore, the government authorizes MUI to perform the function of halal certification of food products, beverages, medicines, and other products consumed or used by the public (Adams, 2004), prior to transferring the authority to issue halal certification to the Halal Product Guarantee Agency (BPJPH).

## Method

This is a library research piece using data sourced from both primary and secondary literature. This article's primary data comes from the decisions of the MUI National Conference, MUI Working Meeting, MUI Fatwa Set, and MUI Fatwa Commission Ijtima Ulama Decision Set. The secondary data is derived from MUI-related scientific works, such as books, journal articles, and other scientific publications. The obtained data is carefully read, described, and analyzed in relation to the subject under investigation in this paper. This study uses a normative-juridical approach by utilizing the theory of positivization of Islamic law initiated by Qodri Azizy. The discussion in this article begins with an examination MUI fatwas in the field of halal products, MUI's policies and steps in the Reformation era in positivizing fatwas, the position of MUI and the halal fatwas it produces in the legal regulations of halal product guarantees, analysis of the transformation model of Islamic law and MUI legal fatwas, and concludes with several conclusions.

## Results and Discussion

### Positivization of MUI Fatwa in the Field of Halal Products

A fatwa is an answer to a query made by a *mustafti* (the person or party asking the inquiry) to the *mufti* on an Islamic law-related topic (Anwar, 2005) so that it is basically part of Islamic law. Because fatwas are responses to issues that arise in Muslim societies, they, like Islamic law, possess dynamic characteristics, adapting to changing times (Hallaq, 2009; Sodiqin, 2021; Witro, 2024). However, fatwas are not legally binding (Nasution and Tahir, 2010). It cannot be used against anyone, including the party that issued the fatwa (Anwar, 2007, p. 304). Nonetheless, in the modern era, fatwas hold an important position and efforts are ongoing to incorporate them into the positive law of the state. This is intended to ensure that fatwas become legal provisions that are obeyed and can be enforced. The efforts to integrate Islamic law (and fatwas) into state law are often referred to as the positivization or legislation of Islamic law.

MUI fatwas in the field of halal products can generally be divided into two groups. First, fatwas that contain technical legal provisions regarding the halalness of a particular object or product to be consumed or used by the Muslim community. From 1998 to 2003, there were no less than 22 MUI fatwas that fall into this category. These fatwas are fatwas on the law of cultivating worms and eating them (2000); the use of human organs for medicine and cosmetics (2000); flavoring products using Mamen (2001), use of Special Polio Vaccine (2002), use of Oral Polio Vaccine (2005), use of Meningitis Vaccine for Hajj or Umrah pilgrims 1 (2009), Alcohol law (2009), use of Meningitis Vaccine for Hajj or Umrah pilgrims 2 (2010), use of microbes and microbial products in food products (2010); the use of placenta of halal animals for cosmetics and external medicine (2010); food and beverage coloring from cochineal insects (2011); the law of consuming snails (2012); the use of formalin and other harmful ingredients in fish processing (2012); the use of fur, hair, and horns from halal animals that are not slaughtered in a *shar'i* manner (2012); the use of placenta of halal animals for medicinal purposes (2012); the law of consuming livestock that are fed from unclean goods (2012), the use of shellac as food, medicine and cosmetics (2013); meningitis vaccine products from Beijing Luzhu Biopharmaceutical CO.LTD (2013); influenza vaccine products from Hualan Biological Bacterin CO. LD Xinxiang China (2018), food and beverage products that use alcohol/ethanol (2018); cosmetic products containing alcohol/ethanol (2018); and fatwa on the use of SII's MR vaccine for

immunization (2018). These fatwas directly confirm the halalness or haramness of objects or products circulating in the market or in the midst of society.

Second, MUI fatwas that contain general legal provisions that become guidelines or legal guidance regarding the holiness of a particular object or product. This second category of fatwa does not determine a particular object (object or goods) as holy-halal or haram, but contains general provisions that can be a reference for the community and also MUI in determining its legal fatwa in the field of halal products. This category includes MUI fatwas on the standardization of halal fatwas (2003), halal slaughter standards (2009), halal food consumption (2009), the use of microorganisms and microbial products in food items (2010), and fatwas on cosmetic standards and their application (2013). The substance of this second kind of fatwa focuses on efforts to establish a foundation and broad norms for determining halal fatwas on food, beverages, medications, and other things.

Fatwa on the standardization of halal fatwa, for example, includes a variety of legislative regulations as well as standards utilized by MUI to determine if an object or thing is halal or haram. The fatwa covers the following topics: the law of alcohol, ethanol, fusel oil, yeast, and vinegar, as well as food or beverages containing them; standards for halal animal slaughter; the use of names and ingredients in food or beverage products; and the use of microbes and microbial products in food (Majelis Ulama Indonesia, 2003). The fatwa on the standardization of halal slaughter contains a number of provisions that must be met so that the results of slaughter can be guaranteed halal, including the standard of the animals slaughtered, the standard of the slaughterer, the tools used for slaughtering, the slaughtering process, and the standard of processing, storage, and delivery of slaughtered meat. This fatwa is also followed by several recommendations that contain demands for the government to make this MUI fatwa a guideline in determining animal slaughter standards (Majelis Ulama Indonesia, 2009).

Meanwhile, the MUI fatwa on halal food consumption contains five fatwa points and several recommendations. The five points of the fatwa are (1) the status of halal protection guarantees, (2) the need to avoid food products, medicines, and cosmetics whose halalness is unclear, (3) the need for producers to immediately certify the halalness of their products, (4a) making MUI as an institution that has the right to determine the halal status of products, (4b) the need for producers to maintain the halal status of products that have been certified, and (5) the obligation of the government to supervise the halalness of products. Some important recommendations from this fatwa are: (1) encourage the government and the House of Representatives to immediately complete the discussion of the Halal Guarantee Bill, (2) encourage the implementation of the halal certification process for small businesses in the field of restaurants to be submitted to the Provincial MUI with the assistance of the Regency / City MUI, (3) encourage the government to supervise the halalness of products, and (4) encourage the National Sharia Council to pay attention to the halalness of its business products related to food, medicines, and cosmetics (Majelis Ulama Indonesia, 2009).

A fatwa on microbes and microbial products in food provides a legal determination that microbes are basically halal as long as they do not cause harm and are not mixed with unclean goods. Therefore, microbes and microbial products that grow on pure growth media are halal. Likewise, microbes and microbial products that grow on unclean growth media are halal if they can be separated between microbes or microbial products and their growth media. However, microbes or microbial products from microbes whose growth uses media that has pig elements in it are haram (Majelis Ulama Indonesia, 2010). Meanwhile, the fatwa on the standard of cosmetic products and their use contains a number of matters related to the standard of halalness or permissibility of using cosmetics. The fatwa emphasizes five things, namely (1) the use of cosmetics for the purpose of adornment is permissible; (2) the use of internal cosmetics (for consumption/entry into the body) that use unclean or haram ingredients is prohibited; (3) the use of external cosmetics that use unclean or haram ingredients, other than pork, is permissible on condition that it must be cleaned after use; (4) the use of cosmetics that are *takhsiniyyat* is not allowed to use unclean or haram ingredients; (5) the use of cosmetics for medicinal purposes is punished like the use of

pharmaceuticals; and cosmetic items that contain substances created by genetically engineered bacteria including pig genes or human genes are haram (Majelis Ulama Indonesia, 2010).

The fatwas above are more of a master fatwa that becomes the basis and standard of MUI, both central and regional, in determining legal fatwas on the sanctity and halalness of food products, drinks, medicines and other products (Rohmah et al., 2020; Susetyo et al., 2019).

MUI's fatwa and recommendations in the field of halal products in reality are not allowed to be just legal fatwas that are not binding. However, MUI has made efforts to make it part of the state's positive law. With a number of policies and strategies used, as will be explained later, MUI's fatwa and recommendations in the field of halal products have been successfully transformed into positive state law, both in the form of legislation and other legal regulations. This can be seen, for example, in the MUI fatwa and recommendation in 2009 regarding the guarantee of halal protection as a right for Muslim consumers (Majelis Ulama Indonesia, 2009), which has been absorbed and become part of the Halal Product Guarantee Law (JPH Law, 2014, part weighing, point [b]). MUI's fatwa and recommendation on the obligation of producers to certify products that have been declared halal (Majelis Ulama Indonesia, 2009) has also become part of the Halal Product Guarantee Law (Article 4 of the JPH Law). Likewise, MUI's fatwa and recommendations on the need to separate halal slaughtered animals from haram ones, and including in terms of storage and distribution (Majelis Ulama Indonesia, 2009) have been adopted and become part of the law, although with different wording. Article 21 of Law Number 33 of 2014 concerning Halal Product Guarantee states that the location, place, and equipment of PPH must be separated from the location, place, and equipment for slaughtering, processing, storage, packaging, distribution, sale, and presentation of non-halal products (*Undang-Undang Nomor 33 Tahun 2014 Tentang Jaminan Produk Halal*, 2014).

Another MUI fatwa and recommendation that has also become part of the country's positive law is the fatwa on the party authorized to determine the halal status of the product. MUI's fatwa and recommendation states that the determination of the halal status of a product must be carried out by an institution that has the authority or power to do so, namely the Council of Indonesian Ulema (Majelis Ulama Indonesia, 2010). These fatwas and recommendations have become part of the Halal Product Guarantee Law and also Minister of Religious Affairs Regulation (PMA) Number 16 of 2009. Article 10 of the JPH Law and Article 18 of PMA No. 26 of 2019 states that the halal certification issued by BPJPH must be based on a written halal fatwa issued by MUI in the form of a Product Halal Determination Decision (Article 10 of the JPH Law, 2014). This is reaffirmed in Article 33 Paragraph (1) KMA 2019 which states that the determination of Product halalness is carried out by MUI (*Keputusan Menteri Agama (KMA) Nomor 982 Tahun 2019 Tentang Layanan Sertifikasi Halal*, 2019).

The number of MUI fatwas and recommendations in the field of halal products that have been successfully transformed into Indonesian legislation shows the success of this fatwa institution in conducting fatwa positivization, namely making its legal fatwas part of the state's positive law.

### **Policy and Strategy for the Positivization of MUI's Halal Fatwa**

The Council of Indonesian Ulema (MUI) is one of the Islamic religious organizations that is concerned with the transformation of Islamic law into positive state law. This has been done by MUI for a long time. Wahiduddin Adams, who conducted research on the pattern of absorption of MUI fatwas into legislation during the period 1975 to 1997, found a number of MUI fatwas that had been absorbed and became part of the legislation in Indonesia (Adams, 2004). In the reform era, MUI was more serious and systematic in transforming its fatwas into positive state law. This fatwa positivization effort has become one of MUI's important agenda in the reform era. In one of MUI's work programs as a result of MUNAS in 2000, it is stated that every fatwa of MUI, both central and regional, is strived to have positive legal force (Majelis Ulama Indonesia, 2000a). This mission of MUI is of course intended so that MUI's fatwas are not just a legal norm, but can be a binding rule of law and can be enforced. This mission can be said to be quite successful, as shown by the number of MUI fatwas that have been successfully transformed into positive state law, such as fatwas in the field of sharia economy, zakat and waqf, and also fatwas in the field of halal products.

The success of MUI in conducting fatwa positivization is at least influenced by the three policies and strategies it has adopted, namely (1) forming the Law and Legislation Commission, (2) forming the forum of Ijtima Ulama Fatwa Commission throughout Indonesia; and (3) negotiating every fatwa and recommendation that has been produced to the policy makers so that it can be used as a positive state law.

### **1. Establishment of the Law and Legislation Commission**

The Law and Legislation Commission is one of the new commissions within the Council of Indonesian Ulama. This commission was established in 2000. During the New Order era, this legal field was only part of the Fatwa Commission (Decree of MUI Leadership Council, 1996). However, in the reform era, this field has become a stand-alone commission and is no longer part of the Fatwa Commission. The purpose of the establishment of this Law and Legislation Commission is to encourage and maximize MUI's efforts in fatwa positivization. Therefore, the main task of this commission is to review various laws and regulations in Indonesia and at the same time encourage and negotiate MUI fatwas so that they can be absorbed and become part of the country's positive law. Therefore, the main program of this commission is to develop legal studies and prepare materials, inputs or proposals for the drafting of bills and other legal regulations. In addition, this commission also developed many Islamic law studies for the sake of codification of Islamic law in Indonesia (Work Program of MUI Law and Legislation Commission 2000-2005).

In the field of halal products, the Law and Legislation Commission has studied matters related to the halalness and sanctity of products consumed by Muslims, especially food products (food and beverages), medicines, and cosmetics. In addition, this commission, through various forums in MUI also gave many recommendations about the need for a law or regulation that can guarantee the rights of Muslim consumers, and at the same time protect them from products that are not halal or not holy.

### **2. Formation of Ijtima Ulama Forum of Fatwa Commissions throughout Indonesia**

Fatwa Commission is one of the organizational tools in MUI (Majelis Ulama Indonesia, 2000a), whose main task is to examine, discuss, formulate, and determine legal fatwa related to religious issues in general. Thus, this Fatwa Commission is responsible and at the same time given full authority to study, formulate and stipulate fatwa on an issue that requires a legal decision. MUI's fatwas always come from or through discussion in the sessions of this Fatwa Commission (Majelis Ulama Indonesia, 2000b). A number of MUI halal fatwas were also born from this commission.

In addition to the Fatwa Commission which has the main task of formulating and stipulating fatwa, MUI in the reform era also established Ijtima' Ulama Fatwa Commission throughout Indonesia. This forum is a meeting forum for scholars who are members of the Fatwa Commission throughout Indonesia and also scholars and intellectuals outside MUI, both from among Islamic religious organizations, pesantren and academics from various universities. This 'Ijtima Ulama' forum is tasked with conducting studies or discussing various legal issues whose drafts have been prepared by the Fatwa Commission, and is usually conducted for several days. Therefore, this forum always produces a large number of fatwas and recommendations, including fatwas and recommendations on the halalness of a product. The Ijtima Ulama activity of the Fatwa Commission throughout Indonesia is carried out regularly every three years. Until 2023, MUI has held Ijtima Ulama of Fatwa Commission for seven times (:2003, 2006, 2009, 2012, 2015, and 2018; and 2021).

Through the establishment of this forum of Ijtima Ulama Fatwa Commission throughout Indonesia, MUI has succeeded in determining a considerable number of fatwas and also making a number of recommendations, including fatwas and recommendations on the halalness of a product, to be forwarded and negotiated to policy makers. In addition, this forum also aggressively calls for the importance of the presence of a halal product guarantee law and at the same time encourages the government to immediately pass the Halal Product Guarantee Bill into law.

### **3. Negotiating MUI's Fatwa and Recommendations to Policy Makers**

In addition to establishing a legal and legislative commission and the forum of Ijtima Ulama Fatwa Commission throughout Indonesia, MUI in the reform era also actively communicates and cooperates

with various parties, especially policy makers in this country, such as the government, the House of Representatives (DPR), Islamic political parties, and socio-religious organizations. This step was taken in an effort to negotiate the results of MUI's fatwas and recommendations and strive for them to become part of the country's positive law.

Through a number of these steps, MUI has been able to encourage the passing of the Halal Guarantee Bill (JH Bill) into law under the name of the Halal Product Guarantee Law (*Undang-Undang Nomor 33 Tahun 2014 Tentang Jaminan Produk Halal*, 2014), which was then followed by several accompanying regulations, namely the Decree of the Minister of Religion (KMA) Number 982 of 2019 concerning Halal Certificate Services (KMA/982/2019); Minister of Religion Regulation (PMA) Number 26 of 2019 concerning the Implementation of Halal Product Guarantee (PMA/26/2019), and Government Regulation (PP) Number 31 of 2019 concerning Implementation Regulations of Law Number 33 of 2014 concerning Halal Product Guarantee (PP/31/2019), which was later revised with Government Regulation (PP) Number 39 of 2021 concerning the Implementation of the Halal Product Guarantee Field (PP/39/2021). In addition, MUI has successfully transformed its halal fatwas into state positive law. However, it is important to emphasize that these policies and strategic steps are not solely intended for the positivization of MUI halal fatwas. Instead, they aim to incorporate all MUI fatwas into state positive law.

The enactment of the Halal Product Guarantee Act and the issuance of a number of accompanying legal regulations cannot be separated from the role of MUI and also other elements in society who continue to strive and aggressively encourage the government to immediately pass the Halal Product Guarantee Bill (JPH Bill) into law (Majelis Ulama Indonesia, 2009). MUI also succeeded in transforming a number of fatwas and recommendations in the field of halal products into the legislation. In addition, MUI also has an important role and position in a number of legal regulations in the field of halal products, especially in the process of determining the halalness of products (Article 113 KMA / 982/2019), issuing halal auditor certificates (Article 14 Paragraph (2) JPH Law & PMA / 26/2019), and accreditation of Halal Examining Institutions (LPH) (Article 14 Paragraph (1) & (2) JPH Law). However, since the issuance of the Minister of Religion Decree (KMA) Number 982 of 2019 concerning Halal Certification Services, MUI's right to issue halal certification for a product has indeed been transferred to the Halal Product Guarantee Agency (BPJPH) (KMA / 982/2019), and is no longer the authority of this fatwa institution (Rofi'ah, Safira, Rohmanu, et al., 2024).

Up to this point, it is clear that MUI has an important role in encouraging the birth of the Halal Product Guarantee Act and its accompanying legal regulations and at the same time succeeded in transforming its legal fatwas into state positive law (Rofi'ah, Safira, & Rosele, 2024). Thus, MUI fatwas are no longer normative, but have become positive state law that has binding legal force and can be enforced (Jalaluddin et al., 2024).

### **Positivization of MUI's Halal Fatwa: An Alternative Model in the Enactment of Islamic Law in Indonesia**

In the history of Indonesia, efforts to make Islamic law as state law and enforce it for citizens, especially those who are Muslim, have actually emerged since the beginning of independence and this has caused debate among the founding fathers of this nation. This can be seen in the debate between Muslim nationalists and secular nationalists about the position of the Jakarta Charter in the Constitution of the Republic of Indonesia (Najib, 2011). In the reform era, the debate has surfaced again. This time the debate is between formalists and substantialists. As mentioned earlier, the formalist group represented by the PPP, PBB, and PK (Justice Party) and fully supported by several formalist Islamic religious organizations such as the Indonesian Mujahidin Council (MMI) and the Islamic Defenders Front (FPI) wanted the implementation of Islamic law in a legal-formal manner. They want the implementation of Islamic law in Indonesia as stated in the Qur'an and as-Sunnah. In addition, they also want the return of the Jakarta Charter (*Piagam Jakarta*) in the 1945 Constitution as the basis and entry point to formally enforce Islamic law. On the other hand, the substantialist group rejects the idea of formally enforcing Islamic law. In addition, this group, which is represented by inclusive Islamic parties and supported by major parties in



parliament, Islamic religious organizations and some progressive critical religious groups such as the Liberal Islamic Network (JIL) also rejects the return of the Jakarta Charter to the Constitution of the Republic of Indonesia. For this group, what is more important is that the principles of Islamic law can be used as a basis and reference in any law-making in Indonesia and that Islamic law does not need to be legalized in the form of legislation (Hosen, 2004; Najib, 2011).

In the context of this debate, the transformation of Islamic law into positive state law through the positivization of Islamic law as carried out by MUI can be a model that can be chosen in an effort to enforce Islamic law in Indonesia. In the context of the positivization of MUI fatwas in the field of halal products, this fatwa institution has prepared its legal material well. It begins by issuing a number of legal fatwas related to the sanctity of an item or object. The fatwas are then reformulated by the Law and Legislation Commission using legal language so that the legal material to be transformed into state law is relatively better prepared and more acceptable to the government or legislature. A number of MUI fatwas in the field of halal products, as explained earlier, have been successfully transformed into a number of laws and regulations in Indonesia.

This means that MUI is quite successful in positivizing fatwas in the field of halal products into state positive law. Thus, MUI fatwas are no longer normative legal fatwas, but have become state positive law that is binding and enforceable for all citizens (Article 1 Paragraph (2) of Law Number 15/2019). The steps and strategies taken by MUI are one of the models for the enforcement of Islamic law in Indonesia, namely through the transformation of fatwas into legislation in force in Indonesia. In addition, this step can also mediate the debate about the strategy that can be used to make Islamic law a positive state law. Thus, it can be said that MUI has a positive and significant contribution in enacting Islamic law in Indonesia.

A number of studies have indeed shown that MUI in the reform era tends to be more conservative and even puritanical (Alfitri, 2020; Hasyim, 2011; Ichwan, 2005), especially fatwas related to *aqidah* and Islamic beliefs (Mustafid, 2014; Mustafid, 2014). In addition, MUI fatwas also tend to monopolize certain religious discourses, especially in the field of Islamic economics (Lindsey, 2012). However, the success of this fatwa institution in encouraging the birth of the Halal Product Guarantee Law and a number of accompanying legal regulations shows the influence and strategic role of MUI in participating in encouraging the enactment of Islamic law in Indonesia. This strengthens the argument that MUI is an Islamic religious organization that has significant influence in Indonesian society (Hakim et al., 2023; La Jamaa, 2018; Syatar et al., 2023). On the other hand, MUI's success in transforming its halal fatwas into a number of legal regulations on halal product guarantee also shows the success of this fatwa institution in conducting fatwa positivization, namely making MUI's fatwas part of the country's positive law.

## Conclusion

This article has discussed and at the same time shown the important role of MUI in positivizing fatwa, especially in the field of halal products. In this case, MUI can be said to be quite successful in transforming its legal fatwas into a number of Indonesian laws and regulations. This cannot be separated from the policy vision and strategic steps that have been taken by this fatwa institution in an effort to positivize fatwa. This shows the important role of MUI in transforming its legal fatwas in the field of halal products into the national legal system and at the same time making the legal fatwas it produces part of the country's positive law. In addition, MUI also has an important position and position in the legislation.

The strategic steps taken by MUI in transforming Islamic law into positive state law through fatwa positivization can be used as an alternative model or pattern in the effort to enforce Islamic law in Indonesia. Thus, it can mediate the debate between the formalist group that wants the enforcement of Islamic law formally and the substantialist group that rejects it. On the other hand, this article also shows that although MUI has shifted its service orientation from an organization that has always been considered to defend the government to an organization that is more in favor of the people, but basically it cannot break away from the state (government). In this case, the government is still used as a partner for MUI's interests, one of which is to realize the enactment of Islamic law in Indonesia.

MUI's success in transforming its fatwas into the state's positive law as shown in this article certainly strengthens the findings of several previous studies on the important role and success of this fatwa institution in positivizing fatwas. La Jamaa, Berlinti, Mudzhar and several other scholars have shown that. However, further study is needed regarding MUI's ability to transform the fatwas it produces into state positive law, especially fatwas outside the field of halal products and Islamic economics. This is because there are indications that a number of other fatwas have not or even have not been successfully transformed by this fatwa institution into state positive law.

## Conflict of Interest

The authors have no conflict of interest with any party in writing this article.

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