



اَوْنُوْ رَسِيَّتِيْ بَاتِيْكَوْ لُوْ كِيْ مَبَارَا
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A COMPARISON BETWEEN FATWA MALAYSIA AND INDONESIA IN MUMALAT

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1.0 INTRODUCTION

Fatwa is an Arabic word meaning a legal ruling on a point of Islamic law (shariah) given by a qualified Faqih (Islamic jurist) in response to a question posed by a private individual, judge, or government. In every fatwa that is issued, there is an ulama' who is responsible for issuing the fatwas called mufti and the act of issuing the fatwa is ifta'. A fatwa is an opinion or judgment on an Islamic law derived from the two main sources of Islamic law, the Quran and the Sunnah, whether it is personal or produced by a group of mujtahid (Asni, 2018). There is a hadith that was stressed to tell the importance of giving fatwa by the right people, "Whoever is given a fatwa (verdict) that has no basis, then his sin will be upon the one who issued that fatwa". The Arabic lexicon defines al-ifta', al-futya, al-futwa, and al-fatwa as "giving answer, or a reply, stating the decision of the law, respecting a question, or a commonly used, notification or an explanation of the decision of the law, or, in respect to a particular case, given by a faqih" (Ibn Manzur, 1414H; Lane, 1968) (UPM Press, n.d.).

Among the fields that get a place in the fatwa is the field of muamalat. A total of 255 fatwas obtained during the 40 years of research conducted and there are four muamalat issues that are popular in terms of their publication, namely shares, inheritance, zakat and waqaf. Shares are a number of ownership units of an investor in a partnership or public company, which is different from the total share of capital in an individual company. There are many fatwas issued related to the issue of buying and selling shares such as ASN and ASB shares. The issue of zakat distribution is also explained in fatwas issued by muftis from Malaysia. Application of waqf in daily life is necessary. Therefore, there are also issues of waqaf that are gazetted mainly about the cancellation of waqaf contracts, the sale of waqaf property and the exchange of waqaf property conditions. Finally, the issue of inheritance in Malaysia. Among the problems in terms of the economic aspect of the land and the payment of taxes on the division of inheritance in Malaysia is the division of land to the heirs and the return of the inheritance. (Muhamad et, al ,2017).

"Ijtihad cannot cancel other ijtihad", which is a distinction between a fatwa and ijtihad that is supported by fiqh. This strategy gives the idea that anyone who meets the requirements can issue a fatwa, despite the fact that only one mufti has ever done so from the official institution that oversees fatwa matters and is chosen by the government, ulil amri at the national level. Hence, ijtihad is unconstrained by those conditions, and the mufti and mujtahid are generally the same, with the exception of the reasons for the fatwa issued with a specific aim, such as to address a query or resolve an issue that has already arisen. In Malaysia, the muamalat