The Position of the Indonesian Council of Ulama in
The Indonesian State Governmental Legal System
The Perspective of Abu Hasan al-Mawardi

Sandya Mahendra¹, M. Junaidi², Tegar Wahyudi³
¹,²,³Universitas Muhammadiyah Surakarta, Indonesia
¹sandyamahendra1453@gmail.com

Abstract

This study aims to 1) Know the position of the Indonesian Council of Ulama (MUI) in the
Indonesian constitutional law system; 2) Knowing the MUI’s position in Abu Hasan Al-
Mawardi’s (Al-Mawardi) thought. The method in this study uses normative legal research
or doctrinal law with a philosophical, historical and conceptual approach. If viewed from a
state institutional perspective, the MUI is in the realm of the political infrastructure area.
Political Infrastructure itself is a group of institutions that exist in society. The MUI fatwa
is not a type of statutory regulation that has binding legal force Based on Article 1 point 2,
Article 7 paragraph (1) and Article 8 paragraph (1) of Law 12/2011, the MUI fatwa is not
statutory regulation, because it is not made by an authorized body/institution and does
not have general binding power. However, the MUI fatwas are a source of material law. To
become a positive law, the MUI fatwa must be positivized by the state through statutory
regulations. The theory of state objectives developed by Al-Mawardi has two basic concepts,
namely (1) formalization of Shari’a activities, (2) regulation of social, economic, political,
legal and military activities.

Keywords: MUI, Constitutional Law, Al-Mawardi

Introduction

The Indonesian Ulama Council or commonly abbreviated as MUI is an institution
and forum for gathering Indonesian clerics with Muslim scholars and zu’ama (leaders) in
providing enlightenment and service to the people so that an Islamic community life is
guaranteed in Indonesia. The establishment of the MUI aims to create a quality society
(khaira ummah), and a state both physical and spiritual, safe, just and peaceful and blessed
by Allah SWT (baldatun thayyibatun wa rabbun ghofur). One of the functions of the MUI institution is as a fatwa giving institution for problems and problems that develop in society (Firmansyah, 2019). The MUI also functions as an organizational forum for all Muslims (Musawar & Suhirman, 2021). As the dynamics develop, the MUI is required to answer through its fatwa regarding all issues that arise happens in society. Furthermore, the MUI has become a unifier for the socio-political activities of people who are heterogeneous and have different affiliation tendencies (Kesuma et al., 2022). In addition, the MUI often issues fatwas in the religious field enough to become a public conversation, such as the fatwa against the prohibition of pluralism, liberalism and secularism, the fatwa on Ahmadiyya deviance and the East Java MUI fatwa about Shia heresy (Ali et al., 2022). These fatwas are considered by some to be contradictory with a spirit of unity and oneness (Zattullah, 2021).

The integration of Muslims and Christians can be formed by group awareness, complementary subsystems and the existence of institutions, which become a catalyst so that mechanical solidarity is formed (Sudarman, 2021). There are also pros and cons that appear almost every year before the Christmas celebration, namely the MUI's stance which forbids Christmas greetings and the use of Christmas attributes for Muslims (Magribi, 2017). On Ramadhan 2022, the MUI Bekasi issues a call for food stalls to close during the day in Ramadan. The appeal then sparked a negative reaction from the community. It is not surprising that the hashtag #DisbandMUI then emerged and went viral on social media as a public reaction to the MUI's stances. The public, or at least individuals, consider that the existence of the MUI is no longer important. Moreover, it is added to the allegations of the politicization of the MUI fatwa by the government (Rosyid, 2022).

On the other hand, Muslims consider that the existence of a fatwa is very important to them. The implications of fatwas for society are very clear, this can be seen from the tendency to use fatwas rather than national law in the life of the state (Sidqi & Witro, 2020). Religious problems of the ummah (read: Islam) are so complex that it is impossible to solve them by fully including the role of the state in them. Here it can be said, there is an area of society as a religious group that cannot be interfered with by the government, and there are spaces where this interference occurs, considering that they are citizens who are subject to the applicable provisions.

The MUI was established on 7 Rajab 1395 Hijri, coinciding with July 26, 1975 AD in Jakarta, Indonesia. The MUI is the government’s partner in implementing development programs for the development of an Islamic life (Tamam, 2021). The establishment of the MUI is inseparable from the historical aspect of the role of the Ulama in shaping the socio-political community of the archipelago long before the independence period. The presence of ulama as mufti (giver of fatwas) in Indonesia has been going on for a long time. Nico Kaptein mentioned that in the final quarter of the 19th century, Nusantara Muslims sought
The Position of the Indonesian Council of Ulama ...

advice from the most famous mufti of Mecca’s Shafi’i at that time, Ahmad Dahlan (d. 1886) (Faizah, 2019).

The MUI have issued many fatwas on various issues. In the 2000-2017 range, the MUI has issued 19 fatwas in the field of worship, 35 fatwas in the field of social and culture, 10 fatwas in the field of jinayah, 10 fatwas in the field of creed. Meanwhile, there were 116 fatwas issued by the National Sharia Council of the Indonesian Ulama Council (DSN-MUI) at the same time. Through this fatwa, the MUI encourages the government to make laws related to criminal acts with the draft law that has been made by MUI. The MUI’s contribution can be in the form of support for the birth of certain laws or regulations in the case of the pornography law (Mulyati, 2019). The MUI has also issued a fatwa regarding social media activities related to the 212 Defend Islam Action in Jakarta (Syahputra, 2020) referring to the Aksi Bela Islam (Action to Defend Islam. During the Covid 19 pandemic, the MUI issued a fatwa regarding prayers procedures (Salim, 2022a), because the pandemic forced the state to issue various legal policies to limit public activities, including the right to freedom of religion and worship (Pratiwi, 2022; Ramadhani & Anggraei, 2022).

Several years ago, there was an opinion that the fatwa of the MUI could be equated with positive law in Indonesia. This was triggered by the emergence of the National Movement to Defend the Fatwa of the Indonesian Ulama Council (GNPF-MUI) in the case of religious blasphemy convicted Basuki Tjahya Purnama (Ahok) (Syahputra, 2020) referring to the Aksi Bela Islam (Action to Defend Islam. These competent parties discussed the relationship between the fatwa of the MUI and positive law. Former Chief Justice of the Constitutional Court (MK) Mohammad Mahfud MD emphasized that fatwas are religious opinions, not positive laws. According to Mahfud, positive law is everything contained in the law and regulated by state institutions, while the MUI is not a state institution. Mahfud added that those who violate the fatwa should not be sanctioned or punished. The fatwa is self-binding and not regulated in law. Unless the fatwa has been positive into law. An example is determining whether a product is halal or not, the law states that the MUI is the only institution authorized to issue fatwas (Habibaty, 2017). The MUI institutionally is in the realm of the political infrastructure area. Political infrastructure itself is a group of institutions that exist in society. Being in the middle of society and is the heartbeat of the socio-cultural life of the community, infrastructure is more in the spaces of community empowerment (Nurfiati, 2016).

The MUI has contributed to the development and application of Islamic law in Indonesia, which is divided into two parts; first, contribution or contribution to legal certainty for the Muslims themselves individually or in groups of Muslims and secondly, in taqniţ on the fatwas that have been made. Some of the MUI fatwa products have been
transformed into laws, government regulations (PP), Presidential Instruction (Inpres), and others (Mulyati, 2019).

The MUI adheres to the principle that they are the heirs of the prophet who automatically have the obligation to convey the teachings of the prophet, at a practical level this clerical organization takes care of matters such as issuing fatwas, providing guidance, spreading the principles of peace and moderation and presenting amar ma’ruf nahi munkar in society. In democratic life, the MUI issued a fatwa by prohibiting the public from abstaining from abstaining. This fatwa later became the foundation for election organizers, in this case the General Elections Commission (KPU), to disseminate the MUI fatwas to increase voter turnout. KPU members have even openly stated that a political attitude that is reluctant to come to the polls will only waste votes or can be called redundant. The existence of the MUI fatwa has certainly contributed to increasing voter turnout. According to KPU records, the voter turnout rate in the 2019 election reached 81 percent, this figure was higher than the 2014 election which only reached 75 percent (Rofii, 2019). Fatwa issued by MUI regarding institutional position in determining government policies. It should be noted that the MUI only has the status of a civil society or a social organization that does not have a strong legal protection. This will become a serious problem if the MUI can be forcibly disbanded at any time. There are many opinions that judge that MUI fatwas tend to follow the wishes of the government, and are not independent. Nonetheless, in a previous study it was concluded that the MUI has contributed to the transformation of contemporary Islamic law, and the development of Islamic law in Indonesia (Jamaa, 2018; Salim, 2022a). The transformation of Islamic law in Indonesia applies nationally within the framework of Pancasila as a democratic country (Karimullah, 2022).

Abu Hasan Al-Mawardi (Al-Mawardi) has the view that the state must protect the interests of Muslim Shari’a activities. Al-Mawardi is one of the Muslim scientists who came to the surface to make a paradigmatic contribution in relation to the concept/system of society and institutions (state) which is quite interesting, that the process of establishing a state is not only based on simply forming human regeneration in one community, but also to remind people of Allah that humans were created as weak creatures, therefore they also need each other (Armedi, 2022). It should be noted that in the concept of Al-Mawardi’s state, the position of religion is very important. As is well known, there are two styles of thought which are both at odds with one another regarding the state and religion (Islam). Some thinkers consider that Islam and the state are a unity that cannot be separated. While others argue that the two should be separated. Al-Mawardi tends to the first feature, that religion and state need each other. Religion needs a state, because with a state religion can develop. Conversely, the state needs religion, because with State religion can develop under ethical and moral guidance. Al-Mawardi said, “Power accompanied by religion will be eternal, and religion accompanied by power will be strong” (Diana, 2017).
Theory of State Institutions

Hans Kelsen uses the term “state organs” to refer to state institutions (Kelsen, 2018). Whoever performs a function determined by the legal system is an organ. This function, whether in the form of making norms or applying them, is ultimately aimed at implementing legal sanctions. The parliament that determines criminal sanctions, and the citizens who elect parliament are organs of the state, including judges who convict criminals as well as individuals who actually carry out the law. Indonesia adopted the separation of powers following the reform of the constitutional system (Chandranegara & Cahyawati, 2023). State institutions in Indonesia’s post-amendment constitutional system are distinguished from state institutions whose status of authority is directly regulated by the Constitution and state institutions which are only mentioned in the Constitution but whose authority is delegated by law. Regarding this in a system in state administration there are at least three groups of state institutions, namely (Kelsen, 2018):

a. State institutions specified in the Constitution
b. State institutions specified in the Act
c. State institutions specified in a Presidential Decree.

In the Indonesian constitutional system, the 1945 Constitution clearly distinguishes the branches of state power in the legislative, executive and judicial fields which are reflected in the functions of the People Consultative Assembly (MPR), the People Consultative Council (DPR) and the Regional Leadership Council (DPD), President and Vice President, Supreme Court, Constitutional Court and Audit Board as the main state institutions (main state organs, principal state organs). It is these state institutions which reflect instrumentally the institutionalization of the main functions of state power, so that these state institutions can also be referred to as main state institutions whose relations with one another are bound by the principle of checks and balances (Badaruddin et al., 2022; Huda et al., 2021).

Pancasila is the ideological foundation for Indonesia’s multicultural society. Pancasila serves as a unifying nation and cultural diversity of Indonesia. In the era of modernization and globalization, Pancasila needs to be reinterpreted as a contemporary political discourse (Madung & Mere, 2021). Normalization of state and religion relations in Indonesia is very important to maintain harmony in the legal system under the ideology of Pancasila (Suntana et al., 2023).

The Theory of the Goal of State in Al-Mawardi Perspective

The theory of the goal of the state according to Al-Mawardi explains that the goal of establishing a state is to protect religion and manage the world. The notion of managing the
The world in Al-Mawardi’s thought is creating social order. The sources of social order include the following (Mustikawati, 2016):

1. Established religion as a regulator of human passions.
2. Legitimate and coercive political power.
3. Justice, prosperity, and harmonious relations between the people and the rulers.
4. An orderly legal and regulatory system that creates a sense of security.
5. Always available resources and stable state income.
6. Guarantee of safety in community activities.

The theory of the goal of state developed by Al-Mawardi has two basic concepts, namely (1) formalization of Shari’a activities, (2) regulation of social, economic, political, legal, and military activities. The goal of formalizing Shari’a activities by the state is so that the existence of Shari’a is maintained. The public will feel that the implementation of Islamic law is not just fulfilling divine obligations but also fulfilling the obligations of the state and with regard to the community’s economic, political, legal and military activities. Al-Mawardi conceptualized that the state should take two steps, (1) form state institutions, (2) draw up rules for each institution formed (Tias, 2020).

Research Methods

The method in this study uses normative legal research or doctrinal law with a philosophical and historical approach as well as a conceptual approach (Dimyati & Wardiono, 2004). This research uses a philosophical and historical approach to examine, analyze and explain the historicity of the MUI. Whereas in the concept approach by examining the position of the MUI in the constitutional system and the thoughts of Al-Mawardi. This type of research is descriptive by explaining and describing the phenomenon that is happening. This study uses secondary data, obtained from literature studies in the form of data sourced from books, literature, journals and legal expert opinions as well as other sources that can support the success of this research (Hakim, 2021).

The MUI’s Position in the Indonesian Constitutional Law System

The birth of the MUI rested on three basic foundations namely: First, it was emphasized that MUI was based on Pancasila and the 1945 Constitution, article 29 paragraph (1), Ulama are obliged to foster Muslims to be more pious to God Almighty and participate in strengthening national resilience and fighting atheism. The first precepts of Pancasila contain the value of monotheism, so that the basis of this nationality is religious (Ihsan & Fatah, 2021) including Madrasah Aliyah (MA. Second, that based on the State Policy Guidelines (GBHN) stipulated, the essence of National Development is the development of
the whole human being, and the development of the entire Indonesian society, a material-
spiritual balanced development in the world and the hereafter. Therefore, the scholars feel
responsible for participating in the success of national development. Third, that based on
history since the colonial era the scholars have pioneered the existence of the clerical union
and today throughout the country it has been formed it is felt that the Regional Ulama
Council needs to have a forum for the unity of all Ulama Indonesia, to realize *Ukhuwah Islamiyah* in the context of fostering unity and unity of the Indonesian Nation (Hakim, 2021).

The authority of the MUI as fatwa issuer is inseparable from the functions of the
MUI which are specified in Article 4 of the MUI Statutes and Bylaws (AD/ART), namely as
follows: (1) The MUI functions: to protect the people and develop an Islamic life, (2) As a
forum for *silaturrahmi* Muslim scholars, *zu’ama* and intellectuals to develop and practice
Islamic teachings and foster *Ukhuwah Islamiyah*, (3) As a forum that represents Muslims
in relations and consultations between religious communities, and (4) As giving fatwas to
Muslims and the government, either requested or not (Suhartono, 2017).

Indonesia is a country with a majority Muslim population, which is neither secular
nor Islamic (Djidin & Syamsuddin, 2019; Zuhri, 2021). So, Indonesia is not a religious state,
nor is it a secular state, and has the Regional Autonomy Law (where the local government
has the right to regulate six matters, one of which is religion), which indirectly gives the MUI
a place to be able to move freely as an organization of religious scholars and also political
clerics, and it is almost certain that the MUI will have such a broad role in 34 provinces
in Indonesia, especially in provinces where the majority of the population is Muslim. In
today’s life, the MUI clerics are not prohibited from participating in the general election
and local election political processes and supporting certain candidates. The MUI’s role in
the fields of religion and politics should always be aligned with the objectives of forming
the Indonesian state (Francoise, 2017), because Indonesia is a country with a diversity of
ethnics, cultures and religions that are sheltered by Pancasila and the 1945 Constitution
(Mujani, 2020; Musawar & Suhriman, 2021). Pancasila and the 1945 Constitution. However,
it’s stability has recently been disrupted by the emergence of khilafah propagated by the
banned Islamic organization, the Hizb al-Tahrir Indonesia (HTI).

If viewed from a state institutional perspective, the MUI is in the realm of the political
infrastructure area. Political infrastructure itself is a group of institutions that exist in society,
being in the middle of the community and is the heartbeat of the socio-cultural life of
the community. Infrastructure is more in the spaces of community empowerment, so that
the action can only be seen by exploring the community. Because MUI is an organization
of Islamic scholars who have duties and functions to empower the community/Muslim
community, meaning that MUI is an organization that exists in society, and is not a state-
owned institution or represents the state. This means that the MUI fatwa is not a state law

---

*Al-Ahkam Jurnal Ilmu Syari'ah dan Hukum ~ Vol. 8, Nomor 1, 2023*
that has sovereignty that can be imposed on all people. The MUI fatwa also does not have sanctions and does not have to be obeyed by all citizens. As a socio-political force that exists in the constitutional infrastructure, MUI fatwas are only binding and obeyed by the Muslim community who feel they have a bond with the MUI itself. This means that actually the legality of the MUI fatwa cannot and must be compelled to be obeyed by all Muslims, let alone to force and must be obeyed by all Indonesian citizens. If seen institutionally, the MUI in infrastructure is in interest groups/groups, more precisely institutional interest groups. Interest groups are a group of people who unite and hold an alliance because the existence of certain interests, whether they are the public interest or the wider community, as well as the interests of certain groups only. There are four forms of interest groups, each of which has specific characteristics and specifications: Associated Interest Groups, Institutional Interest Groups, Non-Associated Interest Groups, and Anomic Interest Groups. Based on the understanding of each of these forms and specifications, MUI is actually included in the Institutional Interest Group, which is a form of interest group institution which generally consists or is formed of various groups of people who come from institutions or professional associations or institutions that previously existed. The goal to be achieved is to fight for the interests of the 75 groups or parts of society that are members (Nurfiati, 2016). In politics, the GNPF-MUI once declared Prabowo Subianto as a representative of Indonesian Muslims through the *Ijtima Ulama*, ahead of the 2019 presidential election (Salim, 2022b). In terms of culture and religion, the West Sumatra MUI has rejected the notion of Islam Nusantara as Islam that accommodates the archipelago’s customs and culture (Ridwan et al., 2019) which is defined as Islam that accommodates the customs and culture of the (Indonesian).

The religious attitudes of Muslims tend to be polarized, constructed and have different mindsets and diversity in understanding government policies (Sardjuningsih, 2022; Zada, 2023) scant studies investigating those negative attitudes using a qualitative approach. In order to fill the gap, this paper reports on the religious attitudes of Muslims who are considered to violate the restriction policy on religious activities ordered by the Indonesian government. The involved participants were policymakers, mosque caretakers, and the three largest Muslim social groups, including Muhammadiyah, Nahdlatul Ulema (NU. The authority of the MUI as fatwa giver in all social affairs. The MUI fatwa has an independent power that encourages government politics to formulate regulations based on the substance of Islamic teachings. Such a fatwa has the power to control government politics. Fatwas in the Islamic legal system have a quite dominant role in providing legal considerations among the people, even though they are considered to have no binding legal force (*gbair mulzimah*), unlike the case with court decisions which are *ilzam* (binding) (Ansori & Ulumuddin, 2020). When referring to the type and hierarchy as stated in Law Number 12 of 2011, the position of the MUI Fatwa is not a type of statutory regulation that has binding legal force (Nurjaman & Witro, 2022). Based on Article 1 point 2, Article 7
paragraph (1) and Article 8 paragraph (1) of Law 12/2011, the MUI fatwa is not a statutory regulation, because it is not made by an authorized body/or institution and does not have general binding power. However, the MUI fatwas are a source of material law. To become positive law, the MUI fatwa must be positivized by the state through statutory regulations. As a source of material law, the MUI Fatwa can be used as a reference for the formation of laws and regulations, even as a mandatory reference. Article 26 paragraph (3) of Law 21/2008 requires Bank Indonesia Regulations to state MUI fatwas regarding Sharia principles, Article 25 of Law 19/2008 requires the Minister of Finance to request MUI fatwas as the basis for issuing State Sharia Securities (SBSN), and Article II number 1 letter a Law 1/2011 making the MUI fatwa the basis or reference for the implementation of Sharia derivative contracts (Suhartono, 2017).

The institution of the MUI as fatwa giver as well as in the constitutional legal system only has the status of civil society which has both positive and negative sides. In terms of the positive side, MUI has independent authority as part of the socio-cultural community to take care of public affairs. On the negative side, the MUI does not have the state institutional status that exists in the laws and regulations in Indonesia. This will make the MUI can be disbanded by force so that it will cause a will cause a loss of control in government and community policies regarding religious affairs.

The categories of state institutions in the constitution was distinguished into three parts namely; the first is a state institution that can be referred to as a State Higher Institution (LTN), which is clearly stated in the Constitution and the name of the institution and its authority. The second institutions that have a supporting or auxiliary role in the main function or determination of their authority in the 1945 Constitution are only by implication, not strictly formulated, namely state institutions whose authority will be regulated through law. Thirdly there are also state institutions whose names are not mentioned in the Constitution, but are mentioned in the law, institutions like this can also be categorized as constitutional importance, meaning that the Constitution provides guidelines for holding. These institutions include the Office of the Attorney General of the Republic of Indonesia, and the Corruption Eradication Committee (KPK) (Assiddiqie, 2002).

Of the three categories mentioned above, it is not implied that the MUI is an institution, as a reflection of the religious institution, the percentage of Muslims, both the name of the institution and its authority are explicitly stated in the Constitution, and the Constitution provides a loophole to be regulated in the law. State institutions will be strong in making policies or regulations relating to Muslims and should pay attention to, consider and make religious fatwa review institutions partners in the formation of laws and public policies. Such as the regulation of the Ministry of Religion on behalf of the state regarding *miqat* for Indonesian pilgrims, starting from King Abdul Aziz Airport in Jeddah,
which was strengthened by a MUI fatwa, and a MUI fatwa regarding the permissibility of family planning (KB) which is in line with state policy. The synergy between the ulama and the umara in the process of law formation will result in the solidity and strength of state institutions. Conversely, if there is no synergy between the two institutions, namely religious and state institutions, then state institutions will become weak and fragile (Kumkelo, 2010).

The MUI’s Position in Al-Mawardi’s Perspective

Al-Mawardi was born in Basra in 364 H or 972 AD. From childhood until he was a teenager, he lived in Basrah and studied Shafi’i jurisprudence with a pious jurist, namely Abu Qasim ash-Shaimari. After that he migrated to Baghdad to visit the scholars there to perfect his knowledge in the field of jurisprudence to the figure Syafi’iyyah al-Isfirayini. In addition, he studied Arabic, hadith and interpretation. He died in 450 H or 1059 AD, and was buried in the city of al-Mansur in the Bab Harb area of Baghdad. Al-Mawardi lived during the reign of two caliphs namely Al-Qadir Billah (380-442 H) and al-Qaim Biamrillah. Al-Mawardi is one of the Shafi’i jurists who has reached the mujtahid level. Even through his works, Al-Mawardi was also able to emerge as the leader of the Shafi’i mazhab of thought in his day (Abyan, 2020).

On the basis of his knowledge, Al-Mawardi conducted *ijtihad* and compiled a political framework regarding matters that must be carried out by a government, such as the main provisions in the appointment of state officials, the duties of state officials and the relationship between the state and the people. This is done in the form of writing and composing books, especially in the field of *fiqh* with a concentration on *siyasi fiqh*.

The theory of the goal of the state according to Al-Mawardi explains that the goal of establishing a state is to protect religion and manage the world. The notion of managing the world in Al-Mawardi’s thought is creating social order. The theory of state objectives developed by Al-Mawardi has two basic concepts, namely (1) formalization of Shari’a activities, (2) regulation of social, economic, political, legal and military activities. The goal of formalizing Shari’a activities by the state is so that the existence of Shari’a is maintained. The public will feel that the implementation of Islamic law is not just fulfilling divine obligations but also fulfilling the obligations of the state and with regard to the community’s economic, political, legal and military activities. Al-Mawardi conceptualized that the state should take two steps, namely establishing state institutions and making laws or rules for each institution formed (Tias, 2020).

According to Al-Mawardi, the goals of the state are the formalization of Shari’a and the regulation of social activities represented through the authority of the MUI as the supervisory body for halal product guarantees. After the enactment of Law Number 33 of 2014, the MUI through the Institute for the Study of Food, Drugs, and Cosmetics (LPPOM)
The Position of the Indonesian Council of Ulama still has strategic authority in terms of:

a. Carry out Halal Auditor Certification.
b. Product Halal Determination.
c. Accreditation of Halal Inspection Agency.

The LPPOM MUI institution still has the authority after the enactment of the Halal Product Guarantee Law (UU JPH), the authority of the LPPOM MUI to accredit Halal Auditors, to determine the halalness of products through the MUI Halal Fatwa Institution, also has a role to accredit Halal Inspection Institutions established by the private sector. In terms of certifying Halal Auditors, the LPPOM MUI has the authority to hold competition test education and training organized by the Halal Product Assurance Organizing Agency (BPJPH) and can be held by other educational and training institutions in accordance with statutory provisions. For authority in determining product halalness, the LPPOM MUI has the authority to review and verify through the Halal Fatwa session by involving experts, elements of related ministries, related institutions, and/or related institutions. As for the authority to accredit the Halal Inspection Agency, the LPPOM MUI has the right to carry out Sharia conformity assessments as determined by the BPJPH (Athief et al., 2022). The implementation of MUI supervision is closely related to objectives Al-Mawardi stated that the state guarantees the regulation of social activities by guaranteeing the halalness of a product for the benefit of the Muslim community.

In addition to supervising the guarantee of halal products, MUI has a role through the DSN to maintain compliance of Sharia Financial Institution (LKS) with Sharia provisions, because Law Number 21 of 2008 concerning Islamic Banking confirms that every business activity must not conflict with Sharia, which is meant in the fatwa that has been issued by DSN-MUI and has been changed to Bank Indonesia Regulation (PBI). Therefore the fatwa that has been alluded to and made into a PBI which is binding on every LKS or binding on people in general, while the fatwa that the poor are contained in the PBI cannot yet be disseminated to the general public/LKS (Supandi et al., 2022). With the guidelines set by Bank Indonesia above, fortifying the position of the DSN-MUI fatwa is a significant source of progress in Islamic finance items.

The safeguarding of regulations on social and economic activities and the formalization of Shari’a activities is a form of a symbolic paradigm in the study of fiqh siyasah, namely a paradigm that proposes the view that religion and the state are related symbiotically, that is, they are reciprocal and need each other. In this case, religion requires a state because with a state, religion can develop. On the contrary, the state needs religion because with religion, the state can step in ethical and moral guidance (Armedi, 2022). In this case the MUI as a representative of religion plays an important role in protecting community Sharia
activities, and the state guarantees Sharia activities as a form of instilling community ethics and morals are always maintained with Sharia values.

Conclusion

The MUI adheres to the principle that they are the heirs of the prophet who automatically takes care of matters such as issuing fatwas, providing guidance, spreading the principles of peace and moderation and presenting *amar ma’ruf nahi munkar* in society. If viewed from a state institutional perspective, the MUI is in the realm of the political infrastructure area. Political infrastructure itself is a group of institutions that exist in society. The MUI fatwa is not a type of statutory regulation that has binding legal force. Based on Article 1 point 2, Article 7 paragraph (1) and Article 8 paragraph (1) of Law 12/2011, the MUI fatwa is not statutory regulation, because it is not made by an authorized body/or institution and does not have general binding power.

However, the MUI fatwas are a source of material law. To become positive law, the MUI fatwa must be positivized by the state through statutory regulations. The theory of the goal of state in Al-Mawardi perspective has two basic concepts, (1) formalization of Sharia activities, (2) regulation of social, economic, political, legal and military activities. The implementation of MUI supervision in supervising halal product guarantees and Sharia banking is related to the goals of Al-Mawardi’s state that the state guarantees the regulation of social activities by guaranteeing the halalness of a product for the benefit of the Muslim community.

References


