

# Examining Religious Moderation of The Al- Jam'iyatul Washliyah Fatwa Council

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**Submission date:** 03-Mar-2022 10:09PM (UTC+0700)

**Submission ID:** 1775566933

**File name:** ious\_Moderation\_of\_The\_Al-Jam\_iyatul\_Washliyah\_Fatwa\_Council.pdf (551.83K)

**Word count:** 9875

**Character count:** 53701

## EXAMINING RELIGIOUS MODERATION OF THE AL-JAM'IYATUL WASHLIYAH FATWA COUNCIL

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**Abstract:** Al Jam'iyatul Washliyah was founded in 1930 in Medan North Sumatera, a plural region religion-wise. Many consider Al Washliyah maintaining moderate understanding of Islam. Its Fatwa Council produced considerable number of fatwas in recent years, including fatwas that test Al Washliyah's position on difficult issues, including issues on terrorism, non-Muslims, Islamic sects, women leadership, and LGBTs. By reviewing the organizational documents using the content analysis method, results showed that not all fatwas issued by the organization reflected its moderate claim. Regarding jihad and terrorism, Al Washliyah's fatwa certainly against using terror in achieving religious goals. Likewise, they consider Shi'ah as orthodox as Sunni, although this decision is contentious inside Al Washliyah since many ulama within the organization opposed it. However, its fatwas in respect to religious pluralism and Islamic sects hints its conservative stance as echoed from their fatwas on interreligious marriage, non-Muslim leader, Ahmadiyah and LGBTs. This shows that such issues remain difficult test for many Indonesian Muslims as religious moderatism increasingly erodes in recent times.

**Keywords:** Al Washliyah, fatwa, religious moderation, Islamic sects.

### Introduction

Several studies are known to have divided the Islamic movement into the mainstream and non-mainstream groups, in Indonesia. According to As'ad Said Ali, the first type<sup>33</sup> of Islamic movement consists of some organizations, such as Nahdlatul Ulama (NU), Muhammadiyah, *Persatuan Tarbiyah Islamiyah* (Perti), *Persatuan Islam* (Persis), and Al Jam'iyatul Washliyah (hereinafter referred to as Al Washliyah). While, the second comprises of Salafi and non-Salafi

organizations.<sup>1</sup> Darajat also showed that NU and Muhammadiyah did not accept radical thoughts and movements, due to the provision of moderate ideology.<sup>2</sup> Toto Suharto also affirmed that in the context of Islamic religion, the mainstream and non-mainstream groups are being provided by the “Indonesianisation of Islam and Islamisation of Indonesia” paradigms, respectively.<sup>3</sup> According to Mujiburrahman, the first paradigm is non-ideological, with the Islamization process being carried out culturally (not structurally by political power). However, this group often competes for influence with ideological classes, which are found to conduct Islamisation, via the use of a structural approach to power.<sup>4</sup> Toto Suharto also emphasized that the mainstream Islamic groups that prioritize “Indonesianisation of Islam”, tends to maintain moderate, friendly, and tolerant characters.<sup>5</sup> Therefore, these three factors helped in distinguishing mainstream from non-mainstream Islamic groups, which are known to possess radical, violent, and intolerant characters.

As an Islamic organization that has developed rapidly outside Java before Indonesian independence, Al Washliyah is often referred to as a non-ideological and mainstream group. Similar to NU and Muhammadiyah which were established during this period, Al Washliyah was also inaugurated during the colonial era, as well as involved in revolution for the independence of Indonesia. According to the religious aspect as well as making use of Dhofier’s terminology, Al Washliyah is also a traditional Islamic organization, which still strictly adheres to traditional Sunni teachings, namely maddhāb (school of law) in jurisprudence, theology and Sufism.<sup>6</sup> Thus, based on the period of its establishment, it has adhered to Shāfi’i maddhāb and

<sup>1</sup> As’ad Said Ali, *Gerakan-gerakan Sosial-Politik dalam Tinjauan Ideologis; Ideologi Gerakan Pasca-Reformasi* (Jakarta: LP3ES, 2012), p. 68.

<sup>2</sup> Zakiya Darajat, “Muhammadiyah dan NU: Penjaga Moderatisme Islam di Indonesia,” *Jurnal: Indonesian Journal of Multidisciplinary Islamic Studies*, 1, 1 (2017), p. 88.

<sup>3</sup> Toto Suharto, “Indonesianisasi Islam: Penguatan Islam Moderat dalam Lembaga Pendidikan Islam di Indonesia,” *Al-Tabrir*, 17, 1 (2017), p. 159.

<sup>4</sup> Mujiburrahman, *Mengindonesiakan Islam: Representasi dan Ideologi* (Yogyakarta: Pustaka Pelajar, 2008), pp. 271–276.

<sup>5</sup> Suharto, “Indonesianisasi Islam,” p. 161.

<sup>6</sup> Zamakhsyari Dhofier, *Tradisi Pesantren: Studi tentang Pandangan Hidup Kyai dan Visinya Mengenai Masa Depan Indonesia* (Jakarta: LP3ES, 2011); Yayan Suryana, *Tradisionalisme dan Modernisme Islam di Indonesia: Kajian atas Pemikiran Keagamaan Haji Ahmad Sanusi 1889-1950* (Yogyakarta: Gapura, 2012), pp. 23-24.

Ash'ari<sup>25</sup> ideology. Institutionally, this organization remains committed to the term of *Ahl al-Sunnah wa al-Jamā'ah*, from 1930 to 2021 (22nd Al Washliyah Congress). However, in the case of the Islamic jurisprudence, Al Washliyah changed its Articles of Association from "adhering", to "prioritizing the Shafi'i school". This change reportedly lasted from 1997 to 2015. It means that in issuing fatwa, al-Washliyah did not only refer to the jurisprudence of Shāfi'i maddhāb, instead, it may refer<sup>5</sup> to jurisprudence of four maddhābs in Sunni tradition, namely *Ḥanafī, Mālikī, Shāfi'i and Ḥanbalī*. However, the XXI's Al-Washliyah Congress in 2015 stated that the Shāfi'i maddhāb regained its prominence as the only jurisprudence that al-Washliyah should depended upon. This shift was a result of decision of Al Washliyah for returning to its original mission (*khittah*) of 1930. *The Khittah* stated that al Washliyah was a mainstream and non-ideological Islamic organization, which applies moderate, friendly, and tolerant characters in carrying out its activities. Besides the problem of changing the editorial of the school, attachment to a single school of jurisprudence has made Al Washliyah to be known as a traditional Islamic organization.

Specifically, this study discusses the fatwas of the Al Washliyah Fatwa Council, which assessed whether the organization's religious views are moderate. Therefore, Hilmy's theory is applied on the five characteristics of Islamic moderatism, including, (1) The ideology<sup>10</sup> non-violence, (2) Adopting the pattern of modern life and its derivatives (science and technology, democracy, and human rights), (3) The use of rational thinking, (4) The contextual approach in understanding Islamic teachings, (5) The use of *ijtihād* in establishing Islamic law.<sup>38</sup>

These characteristics are also extended into several other features, such as tolerance, harmony, and cooperation with adherents of different religions.<sup>7</sup> In Hilmy's study, NU and Muhammadiyah have moderate visions, which rejects violence and accept modernity values, such as democracy, human rights, and tolerance for differences, in religious understanding.<sup>8</sup> In terms of moderation, three types of

<sup>7</sup> Masdar Hilmy, "Quo-Vadis Islam Moderat Indonesia? Menimbang Kembali Modernisme Nahdlatul Ulama dan Muhammadiyah," *MIQOT: Jurnal Ilmu-ilmu Keislaman*, 36, 2 (31) 12, pp. 265-266.

<sup>8</sup> Ibid., p. 269; Masdar Hilmy, "Eksemplar Moderatisme Islam Indonesia: Refleksi dan Retrospeksi atas Moderatisme NU dan Muhammadiyah," *Kompas*, 9 May 2012.

citizens that belonged to the two Islamic mass organizations were observed, namely radical, middle, and soft moderatism. Radical-moderatism citizens have a tendency towards puritan religious ideology, and are also close to that of hardline. Middle-moderatism citizens seem to have limited level of religious knowledge's and moderate attitudes, as well as sociological-pragmatic considerations. Meanwhile, soft-moderatism citizens are an educated group with classical and modern scientific treasures. They are also known as the main players in the Islamic moderatism project in Indonesia.<sup>9</sup> Therefore, Hilmy's theory is being used as a reference, in order to determine whether the fatwas of the Al Washliyah Fatwa Council are moderate or not.

This is a literature study where data is obtained through the tracing of fatwa documents, issued by the Al Washliyah fatwa Council. The processes of interviews are also needed, in order to enrich the data obtained through documental study. These data are then analyzed via the analysis method known as the Miles and Huberman model. Moreover, this research is relatively new, considering that there has been no study assessing the religious views of Al Washliyah, as manifested in the fatwa documents. There are various studies on Al Washliyah as an Islamic movement in Indonesia,<sup>10</sup> but those previous studies are still known to be normative, as the historicity and methodology of the Al Washliyah Fatwa Council, for example, is conducted by Muhammad Amin,<sup>11</sup> Kholidah Nasution,<sup>12</sup> Sucipto,<sup>13</sup> and Ja'far.<sup>14</sup>

<sup>9</sup> Ibid.

<sup>10</sup> For example, see Dja'far Siddik and Rosnita, "Gerakan Pendidikan Al Washliyah di Sumatera Utara," *Ulu*, 18, 1 (2014), pp. 59-80.

<sup>11</sup> Muhammad Amin, "Kualitas Hadis dalam Fatwa Al Washliyah 1998: Studi Kritik Sanad" (Unpublished Master's Thesis, Program Pascasarjana IAIN Sumatera Utara Medan, 2000).

<sup>12</sup> Kholidah Nasution, "Metode Ijtihad Al Washliyah Periode 1988-1998" (Unpublished Master's Thesis, Program Pascasarjana IAIN Sumatera Utara Medan, 2000).

<sup>13</sup> Sucipto, "Pergeseran Istibath al-Ahkam Dewan Fatwa Al Jam'iyatul Washliyah (Analisis terhadap Metodologi Istibath al-Ahkam Sebelum dan Sesudah tahun 1997)" (Unpublished Master's Thesis, Program Pascasarjana IAIN Sumatera Utara Medan, 2002).

<sup>14</sup> Ja'far, "Respons Dewan Fatwa Al Jam'iyatul Washliyah terhadap Isu Akidah dan Syariah di Era Global," *al-Manabij: Jurnal Kajian Hukum Islam*, 10,1 (2016), pp. 97-118; Ja'far, "Peran Al Jam'iyatul Washliyah dalam Merevitalisasi Madhhab Shafi'i di Era



### Al Washliyah Historical Sketch

Al Washliyah was established by the Muslim students that were studying at the Maktab Islamiyah Tapanuli (MIT) and Al-Hasaniyah Madrasah institutions, during the Dutch colonial era in the early decades of the 20th century. The MIT was constructed by the Mandailing nomads from South Tapanuli, with Shaykh Muhammad Yunus (d. 1950), an Indonesian scholar who spent years studying Islam at Ḥaramayn (Mecca and Medina), as the teacher. However, the Al-Hasaniyah Madrasah was established by Shaykh Hasan Ma'sum, a Malay scholar that had previously studied from Shaykh Ahmad Khathib al-Minangkabawi. Afterwards, students of both madrasas, such as Ismail Banda, M. Arsjad Th. Lubis, Abdurrahman Sjihab, Adnan Nur Lubis, and Yusuf Ahmad Lubis established Al Washliyah.

During its inauguration on November 30, 1930 in Medan<sup>15</sup>, Al Washliyah was declared its aim: "to carry out the demands of the Islamic religion".<sup>16</sup> Based on charity, Al Washliyah engaged in education, preaching, social assistance, and economic empowerment. Al Washliyah spread rapidly in Eastern part of Sumatra. Like indigenous organizations of the period, it contributed dearly in revolution leading to the independence of Indonesia.<sup>17</sup> At present, Al Washliyah opens schools, colleges, and madrasas, especially those that teach Shāfi'ī jurisprudence. The madrasah is known as Madrasah al-Qism al-ʿAlī. Furthermore, this organization already has 10 colleges and universities, with its largest campus located at the center of its activities in North Sumatra. Outside North Sumatra, Al Washliyah's schools are also found in Aceh, Riau, Banten, West Java, Jakarta, and

Kontemporer," *Justicia Islamica*, 13, 1 (2016), pp. 1-29; Ja'far, *Dewan Fatwa Al Jam'iyatul Washliyah: Sejarah dan Fatwa-fatwa* (Medan: Perdana Publishing & Dewan Fatwa Al Washliyah, 2020).

<sup>15</sup> Pengoeroes Besar Djam'ijatoel Washlijah. "Keringkasan Riwayat Hasil dan Oesaha Pekerdjaan Al Djamijatoel Washlijah Selama 5 Tahoen Moelai Tanggal 30 November 1930-30-11-1935," *Medan Islam*, No. 27, 1 Syawal 1354/January 1936; Abdurrahman Sjihab, "Memperingati Al Djam'ijatul Washlijah 21 Tahun 30 November 1930-30 November 1951," in M. Husein Abd. Karim (ed.), *21 Tahun Al Dj. Washlijah 30 Nov. 1930-30 Nov. 1951* (Medan: Pengurus Besar Al Djamijatul Washlijah, 1951), p. 2.

<sup>16</sup> Nukman Sulaiman, *Washliyah* (Medan: Pustaka Azizi, 1967), p. 8.

<sup>17</sup> Aliman Saragih, "Kontribusi Al Jam'iyatul Washliyah Terhadap Kemerdekaan Indonesia (1930-1950)," *MIQOT: Jurnal Ilmu-ilmu Keislaman*, 40, 1 (2016).

South Kalimantan. Many of its leadership and members studied in formal education and got college degrees that shows its modern nature. Moreover, it has also become a nation-wide Islamic organization (similar to Nahdlatul Ulama and Muhammadiyah), with representatives in almost all provinces in Indonesia. As an organization that contributes in the spread of Islam in North Sumatra,<sup>18</sup> Al Washliyah was often considered as a moderate and traditional Islamic organization.<sup>19</sup> Even though there were no real data on the number of its constituents, Al Washliyah was an Islamic organization with large followers. Additionally, it is an influential Islamic organization in Indonesia because of its large charity endeavors.

### Religious Orientation of Al Washliyah

In term of religious affiliation, Al Washliyah belongs to Sunni tradition with Shāfiʿī maddhāb and Ashʿarī theology as the rest traditional Muslims in the archipelago. However, this adherence was interfered by period between 1997 and 2015 in which Al Washliyah altered the term “adhering Shāfiʿī maddhāb” to “prioritizing Shāfiʿī maddhāb.” In that 8 years period, al Washliyah theoretically may referred to four Sunni Schools of law, namely Ḥanafī, Mālikī, Shāfiʿī and Ḥanbalī although Shāfiʿī maddhāb still had special position. After that brief period, the 21<sup>st</sup> congress of Al Washliyah sanctioned the affiliation on Islamic jurisprudence of al Washliyah to its previous state in which Shāfiʿī maddhāb regained its exclusive status. This effectively abrogated the previous decision to utilize all Sunni madhhābs. This change in organizational principles to returning to the Shāfiʿī school was criticized by individual jurists of al Washliyah, although it was accepted and obeyed as a congress decision. This reversal decision was reflected in the fatwas of the Al Washliyah Fatwa Council from 2015 to 2021 which shown to be more based on the Shāfiʿī maddhāb. However, in their various fatwa meetings, some jurists were very fluent in expressing their opinions using Non-Shāfiʿīte jurisprudence .

<sup>18</sup> Regarding Islamization in North Sumatra, see Suprayitno, “Islamisasi di Sumatera Utara: Studi tentang Batu Nisan di Kota Rantang dan Barus,” *MIQOT: Jurnal Ilmu-ilmu Keislaman*, 36, 1 (2012), pp. 154-173.

<sup>19</sup> Regarding the typology of Islamic thought in Indonesia, see Baharuddin, “Tipologi Pemikiran Keislaman di Indonesia Abad XXI,” *MIQOT: Jurnal Ilmu-ilmu Keislaman*, 33, 1 (2009), pp. 111-123.

Eventually, the 22<sup>nd</sup> Al Washliyah Congress in 2021 decided that Al Washliyah should return to “prioritizing the Shāfi‘iyah school” at the expense of “adhering Shāfi‘ī maddhāb”.

In this 2021 congress, the decision of Al Washliyah to make Shāfi‘ī school the foundation of the organization was reached. Principally, there are two opposing camps that involved in the debate on the matter. Firstly, those that voted for the return to exclusively adhere Shāfi‘ī school argued that the organization should theologically embrace the Islamic creed and jurisprudence of the Ahl al-Sunnah wa al-Jamā‘ah. On the other hand, the second group proposed that Al Washliyah supported the idea of prioritizing Shāfi‘ī jurisprudence without dismissing the authority of other Sunni maddhābs. The first group gained strong support from the majority of the participants during the 21st Al Washliyah Congress in Jakarta. They stated that the mainstream jurisprudence of Al Washliyah had been the Shāfi‘ī maddhāb, as introduced by the founders in 1930 and lasted until 1997. Based on this reason, the group argued that changing the jurisprudence orientation of Al Washliyah, was regarded as betraying the ideals of the founders. Consequently, they stated that altering the distinctive and historical features of Al Washliyah was also an act of betrayal.<sup>20</sup> Therefore, they demanded that Al Washliyah should retain Shāfi‘ī school as the sole jurisprudential reference as laid out by the founders.<sup>21</sup> Besides, the concept of prioritizing Shāfi‘ī school was considered in genuine and foreign to the founders’ ideas.<sup>22</sup>

The second group that supported the idea of prioritizing Shāfi‘ī school, and at the same time opening the employment of jurisprudential opinions of the rest Sunni maddhābs accused the first parties of lacking the knowledge’s of Islamic jurisprudence and institutional issues. This group also argued that Al Washliyah possessed a flexible and open understanding on the matter. They also insisted that whenever the Al Washliyah became confined solely to Shāfi‘ī jurisprudence, the fatwa should only be practiced by the followers of

<sup>20</sup> Interview with Abd. Rahman Dahlan, Al Washliyah’s scholar in Jakarta, September 18, 2019.

<sup>21</sup> Interview with Imam Yazid, Deputy Secretary of the Al Washliyah Fatwa Council, September 19, 2019.

<sup>22</sup> Interview with M. Nasir, Secretary of the Al Washliyah Fatwa Council, September 19, 2019.



the school and the members of the organization. According to this fact, the group presented an agenda, with the expectation that the Al Washliyah fatwa was likely to become a reference at both national and international levels.<sup>23</sup> Even though this group fought their best for the alteration of the Al Washliyah jurisprudential preference, they gained less support, which guided them to avoid further polemics for the interest of internal cohesion. Eventually, the decision to return Al Washliyah to adhering the Shāfi'ī school was out rightly made, during the 21st Congress.<sup>24</sup> This decision was strongly criticized as being less logical and unrealistic, despite the fact that the Fatwa Guideline was still in line with the 1997 decision of Al Washliyah which allow the employment of non-Shāfi'ite opinions in fatwas. This Guideline, which was drafted by Lahmuddin Nasution and Ramli Abdul Wahid, was presented in the Fatwa Council session in Medan, on the 15th of July 1998 and was sanctioned by M. Ridwan Ibrahim Lubis, the head of the Al Washliyah Fatwa Council at that time.

### The Al Washliyah Fatwa Council

After its establishment in 1930, three years later Al Washliyah formed Madjlis al-Fatwa, which was inaugurated on December 10, 1933. The purpose of this fatwa council was to provide *kebittah* (direction) and decisions on issues that are deemed difficult, regarding religion and other problems.<sup>25</sup> The name of this institution underwent several changes, starting from the Madjlis Al-Fatwa to the *Dewan Fatwa Al Washliyah* (The Al Washliyah Fatwa Council). Afterwards, it was changed to the *Dewan Fatwa, Penasehat dan Pertimbangan*, which finally became the Al Washliyah Fatwa Council. Since its establishment, it has only been at the level of the central board, and not the provincial and regency/city classes. Therefore, the influence of the council in the religious issues was very large in the Al Washliyah organization.

Furthermore, the Al Washliyah Fatwa Council was led by the charismatic 'ulamā of Al Washliyah, some of whom once studied in the

<sup>23</sup> Interview with KH. Ovied, Al Washliyah's scholar in Jakarta, September 19, 2019.

<sup>24</sup> Interview with Abd. Rahman Dahlan, Al Washliyah's scholar in Jakarta, September 18, 2019.

<sup>25</sup> Udin Sjamsuddin, *Chutbab Pengurus Besar Memperingati Ulang Tabun Al Djamijatul Washliyah Sepereempat Abad: 30 November 1930-30 November 1955* (Medan: Pengurus Besar Al Djamijatul Washliyah, 1955), pp. 13-14.

middle eastern countries. Among the jurists that once chaired this institution were Hasan Ma'sum (studied in Saudi Arabia), M. Arsjad Th. Lubis, Abdul Wahab Lubis, Yusuf Ahmad Lubis, Bahrum Djamil, M. Arifin Isa, Jalaluddin A. Muthalib (studied in Egypt and Libya), Totoh Abdul Fattah, M. Ridwan Ibrahim Lubis (studied in Iraq), Ramli Abdul Wahid (studied in Libya), and Abdul Hamid Usman (studied in Egypt). In terms of personnel, the members of the Al Washliyah Fatwa Council were Al Washliyah 'ulamā, which were experts in the field of Islamic jurisprudence and legal theory (*fiqh* and *ushūl al-fiqh*). Those who did not studied Islam abroad studied at the madrasas in Eastern part of Sumatra in which they studied Shāfi'ite jurisprudence and legal theory. The main teachers were Shaykh Hasan Ma'sum and Shaykh Muhammad Yunus who were graduates of madrasah in Mecca and Medina, which was at the time the intellectual center of Sunni tradition.

The Al Washliyah Fatwa Council also began to accommodate jurists of Middle East alumni, during the post-1980s period. Therefore, the personnel were found to be more heterogeneous during this period, as most of them once studied religion in Morocco, Saudi Arabia, Egypt, Libya, and Malaysia. These personnel also received basic education from local madrasas and Islamic boarding schools. Most of them were also alumni of Al Washliyah University (UNIVA) Medan or IAIN/UIN in Aceh, North Sumatra, and Jakarta. At present, the board and members of the Al Washliyah Fatwa Council consist of 'ulamā, young and senior intellectuals groups, as well as senior lecturers. The existence of these young 'ulamā was an organizational effort, in order to cadre them as future 'ulamā of Al Washliyah. According to their regional distribution, most of these 'ulamā originated from Aceh, North Sumatra, and Jakarta.<sup>26</sup>

### Fatwa Method

Since its formation in 1930, Al Washliyah adhered to the jurisprudence of Shāfi'i maddhāb. This preference ceased in its 18<sup>th</sup> congress in 1997 in which Al Washliyah employed all Sunni maddhābs, although Shāfi'i jurisprudence was still prioritized. However, during its 20<sup>th</sup> congress in 2015, its decided to commit to exclusively affiliate to

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<sup>26</sup> See Ja'far and Irwansyah (eds), *Biografi Pengurus dan Anggota Dewan Fatwa Al Jam'iyatul Washliyah Periode 2015-2020* (Medan: Manhaj, 2016).

Shāfi'i maddhāb as it happened prior 1997. Thus, they made references to the leading books in the Shāfi'i maddhāb, in order to solve religious problems being encountered. Generally, it was emphasized<sup>17</sup> that the fatwa method of the Al Washliyah Council referred to the opinions of the<sup>17</sup> Shāfi'i jurists. Specifically, the Al Washliyah Fatwa Council quoted the opinions of the Shāfi'i jurists in their jurisprudence collection in order to answer religious issues. This is presented in the fatwas from 1937 to 1997, as well as those from 2015 to 2021. Nonetheless, in its 22<sup>nd</sup> congress, which took place this year, Al Washliyah again reverted<sup>5</sup> its 18<sup>th</sup> congress decision that accommodate all Sunni maddhābs (Ḥanafī, Mālikī, Shāfi'i and Ḥanbalī).

In term of detailed method of issuing fatwa, members of the Al Washliyah Fatwa Council convened in 1998 to formulate its fatwa method. This period was when al-Washliyah accommodated all Sunni maddhābs. The fatwa<sup>39</sup> guidelines were discussed in the session of the Al Washliyah Council, at the Muslim Nusantara University (UMN) Al Washliyah, Medan, on July 15, 1998. These guidelines set out the basic issues and methods of the fatwa. Interestingly, although they expressed commitment to maddhab, they insisted "fatwas should be based on one of the sources in Islamic law, which includes the Qur'an, Sunnah, *ijmā'*, *qiyās*, *al-istiḥsān*, *al-maṣlaḥah*, *al-'urf*, *al-istishbāḥ*, *shar'u man qablana*, and *qawl al-shahābah*. The guideline also explained that "the method used by the Sunni 'ulamā in determining the fatwa is *istinbāḥ*" using these sources and methods.<sup>27</sup> The prevalence of Shāfi'i maddhāb was reflected in the guideline as it regulated procedure of issuing fatwa as follows:

Basically, the fatwa issued by the council should observe Shāfi'i school stipulated in its authoritative *mu'tabarab* books, with provisions regarding, (a) Issues that are found verbatim (*'ibārah*) in jurisprudence books, with fatwa stipulated according to one single opinion (*qawl/wajh*). (b) Issues with legal provisions, which are found verbatim in jurisprudence books, but there are more than one opinion (*qawl wajh*), the fatwa should be determined using

<sup>27</sup> Dewan Fatwa Al Jam'iyatul Washliyah, *Hasil-basil Sidang Dewan Fatwa Al Jam'iyatul Washliyah yang Dilaksanakan pada Tanggal 15-18 Juli 1998 M/ 21-24 R. Awal 1419 H di Universitas Muslim Nusantara (UMN) Al Washliyah* (Medan: Dewan Fatwa Al Jam'iyatul Washliyah, 1998), pp. 1-4; Dewan Fatwa Al Jam'iyatul Washliyah, *Keputusan-keputusan Dewan Fatwa Al Jam'iyatul Washliyah (1933-2020)*, edited by Ja'far, et al. (Medan: Dewan Fatwa Al Jam'iyatul Washliyah and Perdana Publishing, 2020), pp. 5-6.

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following hierarchy; (1) opinion agreed upon by al-Nawawī and al-Rafi‘ī, (2) opinion set by al-Nawawī only, (3) opinions set by al-Rafi‘ī only, (4) opinions that is *tarjih* by the majority of scholars, (5) opinions that is *tarjih* by the smartest scholar, (6) opinions that is *tarjih* by the most *warā’* scholar, (7) opinions that have not been *tarjih* by the scholar. (c) Issues where the legal availabilities are not found verbatim in jurisprudence book fatwas are to be determined through the procedure of *ilbāq* (analogy) to the *naẓīr* (similar opinion) that stipulated in Shāfi‘ī jurisprudence books.

The guideline further stated that:

(a) if employing opinions of Shāfi‘ī school create *ta‘aẓẓur* or *ta‘assur* (inconvenience or difficulty), a fatwa should be stipulated by resorting to one of opinions of other Sunni maddhābs. (b) in case of the absence of opinions in jurisprudence of Sunni maddhābs, and *ilbāq* was not applicable, fatwas were stipulated through *ijtihād jamā‘i* (collective *ijtihād*).<sup>28</sup>

As regards the Fatwa Guidelines above, it was confirmed that the Al Washliyah Fatwa Council prioritizes the Shāfi‘ī school. The position of al-Nawawī and al-Rafi‘ī as leading scholars in the Shāfi‘ī school was also retained, even though their opinions often preceded one another. Furthermore, the opinions of other Sunni maddhābs was also well-considered in the Al Washliyah Fatwa Council. The guideline showed how the stipulation of “prioritizing the Shāfi‘ī school”, is applied in the process of fatwa issuing within Al Washliyah.

### Fatwa Moderation by the Al Washliyah Fatwa Council

The position of the Al Washliyah Fatwa Council, in the context of moderatism in Indonesia will become the focus of analysis of this article. The moderate vision of an Islamic mass organization is observed from their rejection attitude on violent methods and also, it is observed from their acceptance of modernity values, such as democracy, human rights, and tolerance for religious differences. Specifically, this article also aims to determine the fatwas of Al Washliyah, which were related to *jihad* and terrorism, differences in religions and school, the position of women in the public sphere, and the issue of sexuality (lesbian, gay, bisexual, and transgender people).

<sup>28</sup> Ibid.



This study also aims to analyze the arguments provided by the Al Washliyah Fatwa Council, regarding the type of issues being discussed.

### **Al Washliyah and Anti-Terrorism**

Al Washliyah categorically rejects terrorism. This was presented on the fatwa issued by the Al Washliyah Fatwa Council, during a meeting session held in Jakarta, on October 14<sup>th</sup> and 15<sup>th</sup>, 2011. This session issued eight fatwas, one of which was on jihad and terrorism. Unfortunately, the Council only presented fatwas on the difference between jihad and terrorism, without providing the arguments as the basis for variable determination. The following are the decisions of the Al Washliyah Fatwa Council on *jihad* and terrorism. Jihad was observed to have two different meanings:

- (1) A situation involving all the maximum effort and willingness to endure hardships, during warfare and resisting enemy attacks in various forms. Jihad in this term is known as *al-qīṭāl* or *al-ḥarb*.
- (2) A situation involving all serious and continuous efforts to maintain and exalt Allah's Religion. Jihad in this aspect is known as *li i'lā'i kalimat Allāh*. However, Terrorism is an act of crime against humanity and civilization, which poses a serious threat to the state, security, and world peace. It is also detrimental to the welfare of society, due to being an organized crime that horrified the people.

This fatwa showed that the Al Washliyah Fatwa Council distinguished between jihad and terrorism. The term jihad according to this institution referred to classical books, due to the Shāfi'iyah school. According to this fatwa, Al Washliyah rejected terrorism, which was considered as a crime against humanity and civilization. Al Washliyah also considered that terrorism harms the society, as well as posed a serious threat to the state, security and world peace. Therefore, this organization rejected the use of violence in *da'wa* (invitation to convert to Islam). The use of violence in *da'wa* is contrary to the vision of Al Washliyah, which prioritized moderate attitudes as contained in Al Washliyah, indicating a connecting organization.

The non-violence attitude is also contained in the concept of *sibghah Al Washliyah*. M. Ridwan Ibrahim Lubis, an Al Washliyah ulama (once the Chairman of the Al Washliyah Fatwa Council), explained that the organization wanted its members and administrators to have the following characteristics, “(1) Being interrelated and friendly, (2)

Speak nicely and act gently, (3) Non-excessive neat appearance, (4) Careful in examining problems, (5) Diligent in worship, (6) Sincere in carrying out tasks.” This doctrine is taught to students in Al Washliyah’s education institutions and cadre activities so that it is expected that the Al Washliyah cadres will be equipped with this distinctive personality.

Furthermore, the Al Washliyah Fatwa Council at the National Working Meeting, proposed six concepts that should become organizational characters, on January 30, 2016. the *sibghah* include *istiqamah* (consistency), *shalih* (piety), *silah* (interconnection), *akhlāq al-karimah* (good behavior), *mujahadah* (striving), and *madaniyah* (civility). Among them were two characters, namely *shilah* (to always maintain a relationship with God, fellow human beings, and morals) and *akhlāq al-karimah* (Allah, in human relations, as well as relationships with other creatures and the environment). Therefore, moderatism was also indicated from the concept of this organization, regarding the character of its members and administrators.

Several ‘ulamā that are members of the Al Washliyah Fatwa Council have reportedly published articles, regarding their rejection of terrorism. Ustaz Ramli Abdul Wahid (Chairman of the council for the period of 2015-2020), emphasized that Islam was a religion of peace. The scholar also stated that Islam provided the right to the freedom of selecting religion, according to beliefs, recognition of other religious groups, and focusing on poor non-Muslims. According to Ustaz Ramli Abdul Wahid, Islam actually wanted Muslims to live peacefully with other people. This was not only about the people in their country, as indications emphasized on global interactions. Based on the verses of jihad, Ustaz Ramli emphasized that “war and killing are not absolutely permissible in Islam”. However, killing and fighting against other people or nations were allowed, due to self-defense and defending the religion.<sup>29</sup> Regarding the aspect of suicide bombings, Ustaz Ramli emphasized that the act was for personal gain, which was considered to be *haram*. Moreover, it was a form of hopelessness and self-harm. Besides that, Ustaz Ovied, a young scholar and senior member of the Al Washliyah Fatwa Council, emphasized that Islam prohibited a person from committing the acts of terror, such as suicide bombings, as shown below,

<sup>29</sup> Ramli Abdul Wahid, “Kekerasan dalam Pandangan Islam,” (unpublished paper), pp. 1-5.

This act of suicide bombing aimed at the state and West symbol, is utterly wrong and foolish. Islam completely prohibits such acts of violence and terrorism. Suicide bombers like this are not worthy to be called martyrs, as they are likely to miss heaven. These are just terrorists that died due to the violation of the Sharia rule of Allah SWT. They are categorized as tough people (*tasyaddud*) that believe their group is holier and more noble than others. They dare to justify any means in the name of religion, legalize non-Muslim blood without rights. Therefore, they are found to be similar with the understanding of the *Khawārij* group, that disbelieved Imam Ali.<sup>30</sup>

Accordingly, it was emphasized that Al Washliyah as an organization, rejected violence in the name of religion. In this aspect, Al Washliyah was against terrorism. The Al Washliyah Fatwa Council through its fatwa, also emphasized that terrorism was a crime against humanity. Their scholars also strengthened the fatwa's decision. Moreover, they forbade violent methods in upholding Islam, such as suicide bombings. According to this focus, Al Washliyah was a moderate organization, because it stated that Islam was a religion of peace. Additionally, Al Washliyah firmly rejected violence in preaching Islam.

### **Fatwas on Non-Muslims and Islamic Sects**

The Al Washliyah Fatwa Council has issued fatwas on the matters of relations with non-Muslims as well as the problem of Ahmadiyah and Shia. The fatwas are based on the opinions of Shāfi'ī jurists and Sunni theological doctrine. The Al Washliyah Fatwa Council did not carry out *ijtihad* on the issue as it only quotes opinions of Muslim jurists and theologians. The first issue is fatwa on interreligious marriage. The fatwa on this matter was issued on October 1, 1988, with this type of marriage (a Muslim with a non-Muslim) found to be a common phenomenon in Indonesia in which people from different religions interact. The Al Washliyah Fatwa Council stated that,

- (1) Based on the Islamic law, marriage between Muslims and non-Muslims, both in the Civil Registry and other locations, is prohibited.
- (2) Living in an interfaith marriage as previously mentioned, is an association outside an Islamic marriage.
- (3)

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<sup>30</sup> Interview with KH. Ovied, Al Washliyah's scholar in Jakarta, July 25, 2016.

When there is an intercourse between husband and wife relationship as a result of the aforementioned marriage, it is adultery, regarding the viewpoint of Islamic law. (4) The child born from this marriage does not have lineage and inheritance relationships with the father, compared to the maternal *nasab*. Also, the father does not have the right to become a guardian of marriage if the child were a girl, therefore, resulting in being replaced by a judge. (5) the status *Kitabiyah* (Judaism and Christianity) should be determined. If the person and his or her ancestors become Jews or Christians before *mansukh* (being abrogated by Islam) and alteration of the religion (in doctrine or holy book), the marriage is allowed.

The Al Washliyah Fatwa Council also issued a similar fatwa that further confirmed at the session held in Banda Aceh, Aceh Province, on July 28-30 2010. In this session, the council issued fatwas, including,

The marriage with a person other than *Ahl al-Kitāb*, such and Buddhist and Hindus is absolutely prohibited and illegal. In addition, marriage of a Muslim man with a *Ahl al-Kitāb* (Jewish and Christian) woman might be allowed, but the reality that occurred in the midst of society, the process is still referred to as *baram*.

According to the two fatwas above, the file of the 1988 decision regarding the law of a Muslim marrying a non-Muslim, was more complete than those in 2010. The 1988 fatwa had various considerations, as the basis for determining the fatwa was known. Meanwhile, the 2010 fatwa was not accompanied by the considerations. In 1988, Al Washliyah made Shāfiʿī maddhāb the only maddhāb of organization. However, they prioritized the Shāfiʿī school in 2010, by acknowledging the opinions of other Sunni maddhābs. the two fatwas of the Al Washliyah Fatwa Council regarding the legality of interfaith marriage did not change. The two fatwas were simply on different emphasis. While the 1988 fatwa focused more on the legality of interfaith marriage in the civil registry office, in which non-Muslims in Indonesia register their marriages, that of 2010 dealt with the rules of a Muslim marrying the *Ahl al-Kitāb*.

Also, it was observed that the arguments used by the Al Washliyah Fatwa Council in its 1998 fatwa was the fact that some Muslims who married non-Muslims registered their marriage in the civil registry, not



in Muslim Affairs Office (KUA, Kantor Urusan Agama) which is an office a Muslim should visit to register marriage. In this fatwa, the Al Washliyah Fatwa Council referred to a verse of the Quran 2: 221, 5: 5, and 60: 10, as well as the Hadith of the Prophet, which was narrated by Ibn Majah. This indicated that “the child (of adultery) only has lineage to *firash* (the mother), as men that committed adultery were stoned.” The al-Washliyah’s Fatwa Council also referred to the opinion of Sayyid Bakr Shata, a Shāfi’ī jurist, as mentioned in jurisprudence book *I’ānah al-Tālibīn* regarding marriage with *Ahl al-Kitāb*.

In addition to interreligious marriage, Al Washliyah also issued fatwa on the lawfulness of voting for non-Muslim leaders, including the meaning of *awliyā’* in the Quran 5:51. This issue appeared during the 2017 Jakarta governor election which led to blasphemy accusation of Basuki Tjahaya Purnama (Ahok), then the governor of Jakarta.<sup>31</sup> The Al Washliyah fatwa Council responded by issuing a fatwa on the meaning of the Quran 5: 51. This is the first fatwa of the council regarding the lawfulness of voting for non-Muslims as leaders, although Al Washliyah ulama personally discussed this issue both in their works and *fiqh* studies conducted informally. Their explanation regarding the lawfulness of voting for non-Muslims candidate as leaders was based on the opinions of prominent jurists in the Shāfi’ī school, as obtained in classical jurisprudence.

This prompted the Council to issue a fatwa regarding the law of electing non-Muslims to be leaders, during a meeting held in Medan, North Sumatra, on 22-23 October 2016. The Al Washliyah Fatwa Council issued a fatwa on the meaning of leadership in the Quran 5:51, which was the argument against voting for an unbeliever as leader”. Afterwards, the Fatwa Council issued three recommendations. Firstly, Muslims need to vote for Muslims to be leaders. Secondly, the Indonesian government needs to respect the beliefs and freedom of Muslims for not voting non-Muslims to be leaders. Thirdly, all teachers, administrators and members of Al Washliyah Central to Sub-district level, are recommended to specifically disseminate this fatwa to the people of Al Washliyah, as well as to all Muslims.

The Al Washliyah Fatwa Council further proposed a number of arguments, regarding the prohibition of voting for non-Muslim leaders,

<sup>31</sup> For more detailed account on the Ahok’s blasphemy case, please read Syamsul Huda, “The Local Construction of Religious Blasphemy in East Java,” *Journal of Indonesia Islam*, 13, 1 (2019).

as shown in Decree No. 014/Kep./DF-AW/X/ 2016 on the Meaning of the Quran 5: 51. The fatwa stated that it was important provide guideline for Muslims because the Al Washliyah Fatwa Council observed that, (1) there were differences of views among Muslims, regarding the meaning of the Quran 5: 51, (2) and that Muslims differed in their understanding of word “awliyā” in that verse.

The Al Washliyah Fatwa Council believed that Allah SWT. prohibited believers from appointing unbelievers (non-Muslims) as leaders, as described in the Quran 2: 120, 3: 28, 4: 138-139 & 144, 5:51, 57, and 9: 23. in line with this reference, the Prophet's hadiths emphasized on the urgency of appointing leaders, based on the narration by Imam Abū Daud from Saʿid al-Khudrī, as contained in the *Sunan Abī Daud* hadith collection. Also, the Al Washliyah Fatwa Council quoted Imam al-Māwardī's opinion in *Abkām al-Sultāniyah*, that leaders should have the duty to maintain religion and rule the world, as the duty of preserving Islam should be carried out by believers. The Council also quoted Qādhī ʿIyādh's opinion, which emphasized that the ʿulamā has agreed that leadership should not be handed over to an infidel. Also, the council quoted an opinion of Hamka, an Indonesian modernist ʿulamā, regarding the interpretation of the Quran 5:51, as mentioned in the *Tafsīr al-Azhar*. Besides proposing the views of the ʿulamā, the Al Washliyah Fatwa Council emphasized that the meaning of “awliyā” in the Quran 5:51, was the leader. For the Fatwa Council, even though “awliyā” was interpreted as a close friend, the Quran 5: 51 became the argument regarding the prohibition of electing non-Muslim leaders. In this case, the Al Washliyah Fatwa Council applied Islamic legal theory, regarding *qiyās awlawi*. Therefore, making an infidel a close friend was not allowed. All these were the basis for the Al Washliyah Fatwa Council, in order to decide that the Quran 5: 51 was the argument against appointment of an unbeliever as a leader”.

Al Washliyah as an organization, often announced that Muslims should elect a leader that believed in various moments of Regional Head Election, before this fatwa was issued. As an influential Islamic organization, it often provided support to Muslim candidates only, compared to non-Muslim couples or a combination of both. The scholars and administrators of the organization often made it clear that Muslims should only elect believers as leaders, without considering unbelievers. In certain cases, it was found that some Al Washliyah

ulama and members allowed Muslims to vote for non-Muslims in several moments of regional head elections, especially in North Sumatra province. For example, KH. Ovied R. once allowed Muslims to vote for non-Muslim as their leader in certain situation, namely in emergency situation and the absence of greater risk (*fitna*).

Beside issues of non-Muslims, the Al Washliyah Fatwa Council also has to deal with Ahmadiyah. In fact, the council issued three fatwas on Ahmadiyah. Unfortunately, the first the fatwa issued by the Al Washliyah Council was not well-documented since it was issued long time ago for *Komite Pemberantas I'tikad Ahmadiyah Al-Qadiyany* (Committee for Eradicating Ahmadiyah al-Qadiyany sect), which was established on November 10<sup>th</sup>, 1935. This committee was chaired by two Al Washliyah leading 'ulamā, namely Abdurrahman Sijhab and M. Arsjad Th. Lubis as both Chairman and Secretary, respectively. This committee issued a decision regarding the Ahmadiyah sect. On November 15, 1935, *Komite Pemberantas I'tikad Ahmadiyah Al-Qadiyany* issued two decisions and a conclusion,

- (1) Mirza Ghulam Ahmad Al-Qadiyany who claimed to be a Prophet (Rasul) after Muhammad s.a.w., became an apostate (infidel),
- (2) Followers of Mirza Ghulam Ahmad Al-Qadiyany acknowledged and believed in every word, regarding being ranked after Prophet Muhammad s.a.w became infidels. Conclusively, Mirza Ghulam Ahmad Al-Qadiyany and his followers were all confirmed to be infidels (apostates).

The second fatwa on Ahmadiyah was issued during a meeting in Jakarta on October 14-15, 2011, stated that "the teachings of the Ahmadiyah were divergent and off the religion of Islam". Therefore, followers of the Ahmadiyah were urged to return to the true teachings of the Islamic religion. The council also made recommendation for the government to declare Ahmadiyah as a heretical sect and should not be considered Islam. However, this fatwa was only in the form of a decision, which was not accompanied by *dalil* (textual arguments). Therefore, the argument that became the basis for determining the fatwa was unknown. Several years later, another fatwa on Ahmadiyah was issued in Medan, on December 12<sup>th</sup>, 2017. It stated that, "(1) Ahmadiyah was not the teaching of Islam, as it was heretical and deviant, (2) Muslims that followed the teachings of Ahmadiyah were apostate." Afterwards, the Al Washliyah Fatwa Council issued the following three recommendations,

(1) The Indonesian government should ban Ahmadiyah community in Indonesia, because its existence possibly disturbed the peace/harmony of the religious community and stability of the country. (2) The Indonesian Police should curb every Ahmadiyah activity in Indonesia, in order to maintain the peace and order. (3) Muslims that have already entered the Ahmadiyah should immediately repent and return to the true path of Islamic teachings, by declaring profession of faith.

Contrary to two previous fatwas, this 2017 decision explained the basis for determining the fatwa that indicated the status of the Ahmadiyah sect. to show the deviant aspect of Ahmadiyah, the Al Washliyah Fatwa Council referred to studies published by Ahmadiyah, such as *Tazkirah, al-Istiffa'*, and *Mawabib al-Rahman*. From those publications, the Al Washliyah Fatwa Council concluded that Mirza Ghulam Ahmad had claimed to be a prophet, received revelations, and was visited by Archangel Gabriel. This false prophet also claimed that those not following were possibly cursed by Allah and had become infidels. Moreover, Mirza Ghulam Ahmad acknowledged that the revelations he received had the same degree as the books of Allah. In addition, the Al Washliyah Fatwa Council referred to the Quran 33: 40, and 6: 93 and 53. They also referred to the hadith of Prophet Muhammad in *al-Mustadrak 'ala Sahibayn*, which stated that "when the prophetic message has been cut off, there were no messengers and prophets after me". Therefore, the hadith narrated by al-Bukhārī indicated that "there is no prophet after me." The Al Washliyah Fatwa Council also referred to the Fatwa of the Indonesian Ulama Council (MUI) dated 26 May - 1 June 1980 regarding Ahmadiyah as well as to the 2005 MUI at the National Conference, which confirmed the 1980 Fatwa.

After dealing with Ahmadiyah, Al Washliyah also responded to the Shi'a sect. In this case, the Al Washliyah Fatwa Council once issued a fatwa against the Shia sect. This was issued in 2012, as it was a response from the Fatwa Council to the Sunni and Shia conflicts, which occurred in Sampang, Madura, East Java. Regarding the Shia school of thought, the Al Washliyah Fatwa Council stated that;

... The Al Washliyah appealed to Muslims to implement *taqrib al-madhabib* (an inter-sect approximation) between Sunni and Shia on national and international scales. *Taqrib al-madhabib* was not for uniting these different sects, it rather to helping in constructing tolerance and mutual respect for differences between Sunni and



Shia. Both sects should not mislead each other, in order not to become infidels. Also, they should avoid blind fanaticism, which caused the gap of the Islamic brotherhood.

As a continuation of the fatwa, the Council issued four recommendations. Firstly, appeals were made to the people of Indonesia, in order to respect each other and build tolerance between Shia and Sunni sects. Secondly, violence should not be justified in resolving conflicts in society. Thirdly, when there is a conflict in the community regarding the issue of religious understanding, it is advisable to complain to competent Islamic institutions or organizations, which are capable to resolve it. Fourthly, appeals were made to religious leaders, in order to provide smart and wise understandings, as well as be able to provide insight into the differences in the ideology of schools in the history of Islamic civilization. This needs to be addressed with clear mind and tolerance, which prioritizes the unity of Islamic brotherhood, in building national civilization under the auspices of the Indonesian State that is based on Pancasila.

According to interviews with a number of the Al Washliyah Fatwa Council administrators, the fatwa regarding Shia was not decided in the meeting that involved all the board members of the organization. Instead, the fatwa was the result of a religious decision, which was made by the leadership of the Al Washliyah Fatwa Council. The reason was lack of consensus among Al Washliyah ulama with the fatwa. Some 'ulamā who opposed the most was Ramli Abdul Wahid, which is known as an expert on heretical beliefs in North Sumatra. In addition to writing about criticism of the Ahmadiyah sect's teachings, Ramli shared views on the heretical aspects of the Shia sect. He also asserted that the Shia 'ulamā had made unorthodox interpretations of the Qur'an. According to Ramli, the Shia traditions contained the wrong theological creed. During the contemporary era, the influence of Ramli in the Al Washliyah organization is enormous. Even though the Al Washliyah Fatwa Council had issued a fatwa on Shia, this institution's decision regarding the sect was unpopular, and opposed by many 'ulamā and religious teachers within the organization. Moreover, the fatwa that consider Shia as orthodox as Sunni was deemed not to comply with the 1998 fatwa guidelines of the Al Washliyah Fatwa Council.

### Fatwa on Women and LGBT

Several fatwas issued by the Al Washliyah Fatwa Council were related to women leadership and sexual orientation. On 23 November 1998, the Al Washliyah Fatwa Council held a fatwa hearing, which involved the presentation of four 'ulamā, namely Ramli Abdul Wahid, Lahmuddin Nasution, Ahmad Qarib, 17<sup>d</sup> Darul Aman. The fatwa meeting issued a decision, which stated that "women should not be the head of state." The fatwa was based the concept on the verses of the Qur'an, hadiths, consensus, and the opinions of 'ulamā in the Shāfi'i maddhāb. The Al Washliyah Fatwa Council also referred to the Quran 4: 34, with the hadith narrated by Bukhārī, al-Nasā'ī, Ahmad and al-Hakīm from Abī Bakrah. They also referred to scholars' consent, based on the requirements for the head of state (as stated by al-Juwainī and al-Ījī), as well as the opinion of Muslim jurists, such as al-Juwainī, Sa'd al-Dīn al-Taftāzānī, and al-Sharbainī al-Khathīb. Furthermore, the title of the books being referred to were *al-Irsyād ila Qawāthi' al-Adillab fi Ushūl al-I'tiqād* by al-Juwainī, *al-Mawāqif* by al-Ījī, *Ghiyats al-Umam fi Iltiyas al-Zhulam* by al-Juwainī, *Syarh al-Maqāshid* by Sa'd al-Dīn al-Taftāzānī, and *Mughnī al-Muhtāj* by al-Syarbainī al-Khathīb. In this case, the Al Washliyah Fatwa Council did not carry out *ijtihad* about women becoming heads of state in the Indonesian context. Also, they did not use a contextual approach in understanding the above verses and hadiths, regarding female leaders. The Fatwa Council also accepted the consensus of 'ulamā regarding the requirements for the head of state, which include being male.

In addition, the Al Washliyah Fatwa Council once issued a fatwa on lesbian, gay, bisexual, and transgender (LGBT). This was issued at a national meeting on 22-23 October 2016 in Medan, and was attended by Al Washliyah 'ulamā and intellectuals from Aceh, North Sumatra, Jakarta, and West Java. Regarding LGBT, the Al Washliyah Fatwa Council decided that Lesbian, gay, bisexual, and sodomy (LGBS) were *haram* (forbidden). The fatwa of transgender is also as follows, (1) When born with one perfect sex, transgender is *haram*. (2) When born with one imperfect sex with *tashih* (normalizing) and *takmil* (completing), transgender is *mubah* (permissible). (3) However, when born with multiple sexes, transgender is permissible and even recommended.

Unfortunately, the decision of the Al Washliyah Fatwa Council on LGBT was not accompanied by any considerations or reference.

Therefore, the argument used by this institution as the basis for determining the fatwa, was unknown. However, it was known that the fatwa issued by this institution was generally inseparable from the influence of the books written by the jurists of Shāfi'i maddhāb. This was due to Al Washliyah only adhering to the Shāfi'i school, from 2015–2021. Therefore, the fatwas issued by the Al Washliyah Fatwa Council during that period, were only based on the Shāfi'i school. The fatwas of Al Washliyah on LGBT are typical since these issues contradict dearly to Islamic teaching. However, instead of categorically forbid transgender, the fatwas mention several conditions of transgender show improvement because they still tolerate transgender in certain situation.

### Conclusion

The Al Washliyah Fatwa Council based its religious understanding on the Shāfi'i maddhāb and Sunni theology, in the field of jurisprudence and theology, respectively. Specifically for the issue of the Islamic jurisprudence, Al Washliyah once changed its orientation, from exclusive adherence to Shāfi'i maddhāb to prioritizing the Shāfi'iyah maddhāb. This indicated that in addition to prioritizing the Shāfi'i maddhāb, it accommodated other Sunni Maddhābs (Ḥanafī, Mālikī and Ḥanbalī). From the perspective of moderatism in Indonesia, the fatwas of the Al Washliyah Fatwa Council did not fully preserve a moderate vision. On the issue of radicalism and terrorism, the Fatwa Council issued fatwas on jihad and terrorism. According to this fatwa, the Al Washliyah Fatwa council rejected the violent approach in applying and campaigning Islamic teachings, as well as asserted that terrorism was a crime. Likewise, regarding Shia, the Council showed a moderate attitude since it did not clearly consider Shi'ah as deviant or heretical. Nonetheless, it turned out that this fatwa was debatable within the organization since the majority of Al Washliyah 'ulamā and religious teachers opposed the fatwa. This was partly due to the fatwa meeting was not attended by all 'ulamā in the council. these two fatwas, though, have put Al Washliyah in moderate camp of Islam in Indonesia according to Hilmy's categories of moderatism. It clearly embraces the ideology of non-violence and promote peaceful resolution in dealing with difference and conflict. Its acknowledgement of Shi'ah also indicates readiness to life with

religious others. However, regarding other issues of religious pluralism and different sects, the fatwas issued by the Al Washliyah Fatwa Council was less moderate. The Council rejected interfaith marriage, while also insisted that a Muslim is prohibited (*haram*) from voting for non-Muslim leader. The fact that the Al Washliyah Fatwa Council considered the founders of Ahmadiyah as infidels, increasingly indicated that this organization was showing an exclusive attitude in term of theology. Still, the way Al Washliyah presented its fatwa showed its appreciation to democracy since it formulates the fatwas in such a way that do not recommend to act on the fatwas preemptively, instead they provide recommendation to government to act accordingly. This shows that Al Washliyah's acknowledgment on the authority of the secular government of Indonesia in following up the fatwas.

The fatwas of Al Washliyah show the typical position of moderate Muslims on difficult issues like Ahmadiyah, Shi'ism and LGBTs. As a result, it is difficult to judge moderateness simply based on position these issues. The five characteristics of being moderate as proposed by Hilmy are minimally met by Al Washliyah, especially its Fatwa council. They adopt the ideology of non-violence in response to difference and disagreement on religious others and fellow Muslims who have different <sup>35</sup>in features of theology. They admittedly embrace the pattern of modern life and its derivatives (science and technology, democracy, and human rights), although fell short in certain points. Surely, they are well-educated with formal degrees. They also accept the political establishment of Indonesian nation state as the sole authority in legal enforcement, including in religious matters. Admittedly, propositions of human rights are always stumble blocks for <sup>10</sup>ny Muslims, including Al Washliyah. In term of the employment of rational thinking, contextual approach in understanding Islamic teachings, and the application of *ijtihad* in establishing Islamic law, Al Washliyah has made a giant step. Its fatwa council has accommodated opinions of not only Shāfi'ī maddhāb, but also the rest of Sunni maddhabs. In addition, they necessitate the reference to the Quran and prophet tradition in their fatwa. This is no other but *ijtihad par excellence*. []



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- Interview with M. Nasir, Deputy Secretary of Al Washliyah Fatwa Council, September 19, 2019.

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