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### Fatwa And Political Development: Resistance To The Fatwa Of MUI Medan on Istibdal Al-Masjid

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**Abstract:** This study examines the fatwa of Majelis Ulama Indonesia Medan (MUI) on Istibdal Masjid. This fatwa gained resistance from Muslim community, especially Forum Umat Islam (FUI) Medan City. This is because the process behind the emergence of the fatwa is suspected through the process of negotiation with the beneficiaries, ie developers (developers) in conflict with the mosque manager, in this case represented by FUI. Using the theory of conflict and resistance, the background of the study was analyzed, the results showed that conflicting parties, especially Developers with Muslim groups, made the basis of identity legitimacy as an issue chosen for resistance, ie ethnic and religious issues. Developers in this case represent ethnic Chinese (Chinese) and non-Muslims. Associated with Istibdal fatwa issued by MUI Medan city, FUI in this case denounced by justify as pro-developer of scholars. In the end, development policy in Medan still has many problems, especially related to the construction of public space in which there is a material element in the form of infrastructure development and identity politics based on religious symbols and ethnicity.

**Keyword:** Fatwa istibdal, MUI Medan, political development, political identity

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#### 1. Introduction

Fatwa<sup>1</sup> is Muslim religious practices that help shape thought and action for a particular community, or people on any particular issue, affecting social, economic and personal interests. The fatwa institution plays an important role in contemporary society where different people and different legal regimes exist. It can be used as an instrument of social, political and religious control. In the Islamic State of Pakistan the fatwa is not institutionalized, there are many issues raised in Pakistan and the reason is that there is no Islamic legal institution governing the matter. In a different country like Malaysia there is a need to bring a fatwa as a model to give legal status and give the judiciary the power to apply. Therefore, fatwas have been institutionalized and have been used in all areas of administration and activities related to human business.

In Indonesia although Muslim majority states the fatwa applies culturally and exclusively to Muslims but is not institutionalized in an institutional national legal system and is therefore subordinated. The problem that the fatwa asked for MUI is very diverse. Starting from daily issues related to personal affairs, worship, halal-haram, medicine, to social-political problems, social community, sharia economy, and the development of science and technology. All of them are related to religious matters. Here the fatwa is organized by the Council of Indonesian Ulama Council in which the structure does not enter as a State high institution. Moch Nor Ichwan said the MUI's position against the government during the New Order was reflected in the fatwas issued.<sup>2</sup> The Falls of the New Order resulted in major changes in many occasions, and

<sup>1</sup>Fatwa is a collective ijihad result from several religious experts who try to formulate the answer to a problem that has not found the legal argument clearly and detail in the main source of Islamic law, namely Alquran and hadith. The act of giving a fatwa is called fatwa or ifta a term that refers in a profession giving advice. People who give fatwas are called mufti or ulama, while those who ask for fatwas are called mustafti, the fatwa requesters may be individuals, institutions, or anyone who needs them. Usually fatwa is an independent profession, but in many Muslim countries it is linked to the authority of the state in various ways. In the history of Islam, from the first century up to seventh hijriah, it was the country that raised the qualified scholars as mufti. But in later times official posts of fatwa were created, so the mufti as a hierarchical state office, but still in religious function. The state functions imposed on fatwa do not eliminate the profession in private, but still in religious function. The state functions imposed on fatwa do not eliminate the profession in private, but still in religious function. See more in Dewan Redaksi, *Enskiklopedi Islam, Jilid II (Jakarta, Ichtar Baru Van Hoeve, 1995)*, p. 7.

<sup>2</sup>Moch Nor Ichwan in "Ulama, State, and Politics: Majelis Ulama Indonesia After Soeharto", *Islamic Law and Society* 12, No. 1 (2005).

# Fatwa And Political Development Resistance To The Fatwa Of MUI Medan on Istibdal Al-Masjid

*by* Muhammad Ramadhan

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### I. Introduction

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In Indonesia although Muslim majority states the fatwa applies culturally and exclusively to Muslims but is not institutionalized in an institutional national legal system and is therefore unbound. The problem that the fatwa asked for MUI is very diverse. Starting from daily issues related to personal affairs, worship, halal-haram, medicine, to social-political problems, social community, sharia economy, and the development of science and technology. All of them are related to religious matters. Here the fatwa is organized by the Council of Indonesian Ulama Council in which the structure does not enter as a State high institution. Moch Nor Ichwan said the MUI's position against the government during the New Order was reflected in the fatwas issued.<sup>2</sup> The Falls of the New Order resulted in major changes in many occasions, and

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included opening up a wider articulation space for MUI. After the reform period, it appears that the MUI changed its orientation and its work to no longer only a government policy tool but more oriented towards the awareness.

In Medan in the last five years, there are some fatwa that are problematic such as the transfer of 11 mosques in several points of Medan. This fatwa reaps a variety of responses from the community even impact on the socio-economic life of politics for the Muslim community in the vicinity. Therefore, many fatwas experience problematics especially when dealing with the positive law held by the State and the ways of the people to respond and implement the fatwa. One of the fatwas raised in this study is about fatwa Istibdal mosque,<sup>3</sup> the fatwa issued by the MUI of Medan related to the transfer of mosque At-Thoyyibah Mosque on the road Multatuli Medan Maimun District.

## II. Theoretical Paradigm

J.C. Scott on the theory of forms of resistance<sup>4</sup> explains that the form of resistance is an integral part of a relatively helpless minor group. So in these groups there have been seeds of resistance, various forms of action bias such as dragging feet, dissimulation, false compliance, pretending not to know, desertion, theft, smuggling, hunting, burning, slander, sabotage, silent attacks -and murder, anonymous threats, and so on. Basically, these techniques are the usual old ways of class struggle, but they do not pose a fatal danger. However, when this method is widely practiced by members of the entire class against the elite or the state, they may have an aggregate that is unbalanced by their proportions when considered alone.

In a different context, ironically, this trivial resistance is supported by the elite and some social scientists by putting a great deal of attention to the threats announced by stakeholders: social movements, dissident sects, revolutionary groups and other forms of political opposition organized public. Such groups, of course, also tend to leave written notes like manifestos, agreement points, membership lists, journalist descriptions, and police reports that help ensure they are a solid place in historical records.<sup>5</sup>

Scott (1990) classifies two models of resistance or resistance: 1) forms of resistance belonging to the public transcript and 2) forms that fall into the hidden transcript. Public transcript is a hidden form of resistance, for example, seen in the various performances on stage which are likened to theater players who must live in two worlds, real-world everyday and world pretense on stage. Another model is hidden transcript which explains that the resistance is done covertly or done behind the opponent. The formation of resistance or resistance which can be referred to as hidden transcript is shown by the style of pretense in front of the opponent, such as good pretense and fake friendly. However, behind the opponent they just show the opposite. For example, they slander, swear, grumble, ridicule, gossip, and so on political opponents. In examining the issue of resistance, Aji (2000) not only questions the hidden forms of resistance, but also considers the possibility of transformation from one form to another which can be caused by an increasingly democratic social and political process. This democratic state provides opportunities for people to take previously hidden measures of resistance and democratic / procedural, democratic nature, middle-class economic growth, and the transformation of information technology such as the internet and social media greatly enable social protests to undergo transformation shape and has a wider effect.

On conflict<sup>6</sup> in the history of human life is actually a necessity, it is present in the space and time where humans exist, the conflicts that appear in the bandage of religion for example also shows that religion as a single entity of life that can not be ignored. Social conflict as an expression that can explain the various phenomena of conflict is always latent and manifest. Religious conflict in this case is also latent and manifest, where religion plays an important role to increase escalation or escalation of a conflict. In a plural society, conflict is an inevitable part, in fact over the centuries, differences in plurality have led to violent

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<sup>3</sup>Istibdal is an exchange of waka<sup>6</sup> property by selling wakaf property and the proceeds are used to buy other wakaf treasures in exchange. See Abu Zahrah (1971), *Muhadarat Fi al-Waqf*, Kaherah: Dar al-Fikr al-Arabi, p. 161-162.

<sup>4</sup>Scott, J. C. (2008). *Everyday forms of resistance*. *The Copenhagen Journal of Asian Studies*, 4 (1), 33.

<sup>5</sup>Ibid.

<sup>6</sup>Conflict is defined differently, eg social conflict refers to two things; first refers to a particular perspective where conflict is always present and inherits all aspects of human interaction and social structure; second, it refers to open disputes such as war, revolution, strikes and resistance movements. See Adam Kuper&Jessica Kuper, *The Social Science Encyclopedia*, translated by Haris Munandar, dkk. (Jakarta: Raja Grafindo Persada 2000), jilid 1, p. 155. Social conflict is also defined as 'the struggle over values and claims to gain rare status, pow<sup>7</sup> and resources, in which the objectives and conflicts are to neutralize, injure or exhaust their enemies'. See Lewis A. Coser, *The Function of Social Conflict* (New York: The Free Press, 1956), p. 8.



and prolonged conflict. In multicultural and multi-religious societies such as Indonesia, socio-religious issues are not simple issues. Interreligious relations between religious believers and even internal religious communities are constantly confronted with conflicts both locally, regionally, nationally and internationally. The inter-religious and internal relations of religious people are not always harmonious, but they are often colored by tension, because religion has many faces (multifaces), besides there are certain institutional interests, powers, and interests, although social values remain in it.<sup>7</sup>

In social conflict, religion plays an important role, because religion is the deepest element in culture and is very influential in society in terms of seeking meaning in life.<sup>8</sup> Moreover, according to the sociologist's view, religion is both functional and dysfunctional as well.<sup>9</sup> Religion is functional meaning religion is able to fulfill social functions, such as psychological peace, social cohesion, sacralization of social structure that maintains the internal balance of a society. Religion is dysfunctional ie religion can be a force that scatters, destroys, if religion is used to develop sentiment in a social conflict.<sup>10</sup> Another term religion is paradoxical, ambivalent, double-faced, on the one hand teaches kindness, peace and love, but on the other hand religion teaches violence and hostility.<sup>11</sup> According to Otto, the social function of a religion varies greatly depending on the historical background, the structure and articulation of certain societies and religious systems.<sup>12</sup> Then, the conflict has two forces: constructive and destructive it can be studied through some theoretical conflict view, ie:

1. The absence of conflict in a social relationship can not be a guide that the relationship is stable and secure or free of potential conflicts. In a democratic government Rene Klaff argues that the basic assumption of a democratic form of government is that society is actually conflict-ridden. According to him, although democracy requires conflict, but democracy also requires consensus.<sup>13</sup> In other terms Franklin Dukes states that in a democratic society, conflict is the basis for social change.<sup>14</sup>

1. In a plural society, conflict is not a sign of an imbalance, but as a sign of the balance mechanism process.<sup>15</sup> The group boundaries through conflict with other groups, where a group defines itself in the struggle with other groups. Conflict with other groups contributes to strengthening group identity. Likewise the conflict situation will encourage efforts to strengthen inward solidarity among its members.<sup>16</sup>

2. Conflict can be said to be productive in two levels; Firstly, if he accompanies the occurrence of modification and creation of the law. In the sense that during the conflict, new rules continue to be raised and old rules are modified. Quoting Weber, Lewis Coser states that indeed a conflict of interest brings in the first, the emergence of creation and modification of the law. Second, the application of the new rules leads to the growth of new institutional structures centered on the implementation of the new rules and laws.<sup>17</sup>

From the above assumption it can be explained that social conflict will always exist, both religious and non-religious conflicts, therefore what can be done is how to control the conflict between different opposing groups will not be realized in the form of destructive conflict or form of violence.<sup>18</sup>

The above theoretical description of the conflict illustrates how exactly the shape and pattern of the conflict occurred, that is, from the paradigm of conflict in the community, the process of peace building must be a match for the conflict that is also always present in the midst of human life. The process of peace

<sup>3</sup> M. Amin Abdullah, "Rekonstruksi Metodologi Studi Agama dalam Masyarakat Multikultural dan Multireligius" in M. Amin Abdullah, et al. (ed.), *Antologi Studi Islam: Teori dan Metodologi*, (Yogyakarta: Sunan Kalijaga Press, 2000), p. 4.

<sup>8</sup> Syafa'atun Elmirzana, et al, *Pluralisme, Konflik dan Perdamaian: Studi Bersama Antariman* (Yogyakarta: Interfide, 2002), p. 112-113.

<sup>9</sup> See Betty R. Scharf, *The Sociological Study of Religion*, transl. Machnun Husein, "Kajian Sosiologi Agama" (Yogyakarta: Tiara Wacana, 1995), 93; Elizabeth K. Nottingham, *Religion and Society*, transl. Abdul Muis Naharong, "Agama dan Masyarakat" (Jakarta: Raja Grafindo Persada, 1997), p. 31-48.

<sup>10</sup> Otto Maduro, *Religion and Social Conflicts* (New York: Maryknoll, 1982), p. 118.

<sup>11</sup> See Th. Sumartana, "Peran Institusi Agama dalam Transformasi Masyarakat" dalam *Newsletter Interfide*, Edisi Juni 2002, p. 10.

<sup>12</sup> Otto Maduro, *Religion and Social Conflict*, p. 119.

<sup>13</sup> Rene Klaff, "Prinsip-prinsip Dasar Demokrasi dan Pemerintahan yang Baik" in *Islam dan Barat: Demokrasi dalam Masyarakat Islam*, (6.) Ulil Abshar-Abdallah, (Jakarta: FNS Indonesia & Paramadina, 2002), p. 114-115.

<sup>14</sup> Franklin Dukes, *Resolving Public Conflict: Transforming Community and Governance* (Manchester University Press, 1996), p. 164.

<sup>15</sup> Lewis A. Coser, *The Function of Social Conflict*, p. 84.

<sup>16</sup> Nasikun, *Sistem Sosial Indonesia*, cet. 9 (Jakarta: RajaGrafindo Persada, 1995), p. 63.

<sup>17</sup> Lewis A. Coser, *The Function of Social Conflict*, p. 126.

<sup>18</sup> Nasikun, *Sistem Sosial Indonesia*, p. 22.

building will be effective when nonviolent processes are also applied in parallel. In research on cultural strategy in this process of peace and non-violence, the researcher uses two important theoretical frameworks, namely peace building and non-violence. The phenomenon of conflicts backed by religious factors, from the past until now always occur in various parts of the world, including Indonesia and in the other dearah the more visible surface. These conflicts may be widespread because of the increasingly globalized influence of information from different parts of the world that can be accepted by individual adherents of religion.<sup>19</sup>

The plurality of social institutions in the community is one of the relevant media for strengthening relationships (integrating) between groups within a heterogeneous society. Integration is the control of conflict and deviation in a social system.<sup>20</sup> In another sense, integration is a condition that shows the regularity of the interdependence of coordinated behavior within a social group.<sup>21</sup>

Social integration is intended as the unification of groups that were previously separated from each other by through the elimination of social and cultural differences that existed before. Social integration also refers to the acceptance of an individual individual by other members of a social group.<sup>22</sup>

The process of integrating society through a series of stages is as follows: Interpersonal Integration: Social Integration and Cultural Integration. The existence of communication and social contact (social contact) is the absolute requirement of integration, or even result in conflict when the social contact is negative. When there is social contact and communication among individuals, it will continue with the mutual response between groups, especially in the field of economics which becomes a common need among them.<sup>23</sup>

In the view of structural functional theory there are two things that underlie the integration of a social system, that is first, an integrated society on the growth of consensus between universal and fundamental societal norms; secondly, some individuals from society are also members of various groups social (cross cutting loyalties).<sup>24</sup> The presence of social institutions, both sacred and profane as the actualization of consensus among the norms within a community community is a powerful medium for integrating society.<sup>25</sup>

### III. Resistance To Ulama

Religion, spirituality and belief have experienced long-term and systematic abandonment in theories of development, policy-making and practice, although there has been a noticeable turnover in the past 10 years. Religion has been ignored and ruled out in the theories and strategies of international development, supported by the discourse of social theory during the era of development. The dominance of the theory of modernization and secularization has been the key to this marginalization, but if, as recently confirmed, we should recognize the impact and cultural influence of development strategies, we must take into account the specific role of religion in this respect.<sup>26</sup> This article argues that religion is a decisive force in culture, and asks whether in the postmodern era.

In a country where jurisdiction over Islam is placed under state administration as in Malaysia, standardization is an aspect that continues to be a formidable challenge.<sup>27</sup> In legal matters, different provisions create complications in their implementation. Similarly, with regard to fatwas, differences in fatwas between states in certain legal matters can cause confusion for the public. Although the nature of the fatwa itself allows for differences of opinion and decision on legal matters, differences in small countries such as Malaysia can cause adverse consequences. On the contrary, in Indonesia the fatwa does not become an integral part of the national legal system. So open to him the problem that is not just a matter of standardization, but, attitude to the fatwa and its application.

About At-thoyyibah Mosque, Timsar zubir explained that the process started from the cooperation of the developer with the Medan City Government, then, evicted to the community by buying their homes for a cheap price. Furthermore, if they do not want to sell their houses they are intimidated until someone is

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<sup>19</sup>Amin Abdullah, *Studi Agama, Normativitas atau Historitas?* (Yogyakarta: Pustaka Pelajar Offset, 1996), p. 8.

<sup>20</sup>Soerjono Soekanto, *Beberapa Teori Sosiologi Tentang Sturuktur Masyarakat*, (Jakarta: Rajawali Pers, 1983), p. 157.

<sup>21</sup>New Comb, et. al. *Psikologi Sosial*, (ed.) Ny. Yoesoef Noersjirwan, (Bandung: CV. Dipenogoro, 1978), p. 485.

<sup>22</sup>Mochtar Mas'oeud, *Handoust: Politik dan Pemerintahan di Asia Tenggara*, (Yogyakarta: Ilmu Sosial dan Politik Pascasarjana UGM, 1991), p. 2.

<sup>23</sup>Soerjono Soekanto, *Beberapa Teori Sosiologi*, p. 157.

<sup>24</sup>Nasikun, *Sistem Sosial di Indonesia* (Jakarta: Rajawali Perss, 1988), p. 69.

<sup>25</sup>Ibid., 12.

<sup>26</sup>Selinger, L. *The Forgotten Factor: the Uneasy Relationship Between Religion And Development*. Social compass, 2004), p. 51

<sup>27</sup>Nasohah, Z., Laluddin, H., Kusrin, Z. M., & Muwazir, R. (2012). Standardisation of fatwa in Malaysia: Management and Problems. *Advances in Natural and Applied Sciences*, 6 (6), 923-930.



arrested and detained, then influences the mosque's administrators to make a request for a new mosque, on the grounds that the old mosque is not feasible, or the congregation no longer exists because it has moved after their homes for sale.<sup>28</sup>

In addition, they engineered the results of the deliberations so as if the community agreed with the transfer of the mosque, then, get a fatwa or recommendation from the Indonesian Ulema Council (MUI). In the context of the destruction of At-Thoyyibah Mosque, institutionally, MUI Medan Maimun Sub-District behaves disagreeing, but the developers take more structural steps by directly requesting and getting fatwa from MUI Medan City. Finally, the developers then take advantage of security officers and thugs.<sup>29</sup>

The tension between developers working with the Medan city government to build a shopping complex with the FUI party has increased in line with the issue of fatwa Istibdal waqaf from MUI Medan. For FUI, the destruction of At-Thoyyibah Mosque is a forced effort by the developer with lobbying power and the money has succeeded in getting recommendation (fatwa) of MUI of Medan City whose substance stated that: First, the construction of the new At-Thoyyibah Mosque located on the road Multatuli Hamdan Village Medan Maimun Sub-district is deemed to have fulfilled the requirement of change of location or transfer of mosque location in accordance with Islamic Shari'a. Secondly, the building and construction of the new At-Thoyyibah Mosque is understood to be adequate in lieu of the previously existing At-Thoyyibah mosques and buildings. Third, worship activities in the new At-Thoyyibah Mosque can be run as usual. Fourth, that this fatwa can be used as a guideline since the date of stipulation. With the fatwa MUI Medan Medan above Beni Basri as the developer managed to get a protector to secure the thugs-payers work dismantle and leveling with the land of At-Thoyyibah Mosque.<sup>30</sup>

Chairman of MUI Medan stated that the official statement from the village head is the basis of the dominant consideration in considering the case, before issuing a fatwa. This means that the MUI of Medan City ignores the opinions and facts submitted by those who maintain the At-Thoyyibah Mosque in order not to be dismantled. According to Timsar, among the facts ignored by the MUI of Medan City is the lie of Hamdan Urban Village of Medan Maimun Subdistrict which stated that At-Thoyyibah Mosque land there is no cross dispute, as a requirement for Beni Basri to get the Property Right from the National Land Agency. If there is no cross-dispute, what is the purpose of the Medan city administration to invite the parties, and for what reason the Chairman of MUI Fatwa Commission of Medan City suggested in the meeting that the At-Thoyyibah Mosque should not be dismantled and the surrogate mosque should not be inaugurated until there is a decision from the Supreme Court.<sup>31</sup>

FUI reads a political phenomenon that resulted in the demolition of the mosque. Timsar explains: 1) Ministry of Defense Decision of the Republic of Indonesia exchanges (ruislag) KODAM I BB assets to PT. Ganda Reksa Mulya, among others, there is the object of the use rights certificate number 847 in 2006 which in it there is Al-Ikhlash mosque is a wrong decision which resulted in negative imaging nationally and internationally against the Ministry of Defense of the Republic of Indonesia, and generally against the government as responsible for the implementation of the State. 2) No optimal structure of the army against the solution of the problem of destruction of Al Ikhlash mosque East Medan road which is included in the use rights certificate number 847 in 2006 in giving consideration and firmness to PT. Ganda Reksa Mulya as a result of them from the exchange of assets (ruislag) of Regional military command (KODAM I BB), resulting in negative image of the National Army (TNI) especially against KODAM I BB. 3) The low or slow of awareness of North Sumatra Provincial Government, namely Plt. Governor of North Sumatra Province and House of Representatives of North Sumatera (DPRD) as mediator or issuing discretion (conditional) to related parties especially to PT. Double Mutual Mulya which has business interests, resulted in the decline in public participation (islam) in government development programs, especially in the field of religion. 4) The existence of omission by the Regional Government of Medan City, namely the Regional Parliament of Medan and the Mayor of Medan on the construction of unauthorized wall wall on the land of the use rights certificate number 847 of 2006, is evidence of the lack of concern and assertiveness and administrative actions that prove the absence equality of political rights and law of society (Islam) with TNI as protector of business interest of PT. Ganda Reksa Mulya.<sup>32</sup>

The case of the at-Thayyibah mosque began the construction of a shop-house by PT Multatuli Indah Lestari in the area of the mosque was established. Meanwhile, the local community rejected the development plan and refused the execution of the mosque, based on At-Taibah Mosque standing on the land of wakaf. However, the execution was still carried out in 2006 by PT Multatuli Indah Lestari. The developer's

<sup>28</sup> Interview with Sudirman Timsar Zubil, Medan, March 2017.

<sup>29</sup> Interview with Sudirman Timsar Zubil, Medan, April 2017.

<sup>30</sup> Summary of *Focus Group Discussion* with MUI Medan, April 2017.

<sup>31</sup> Interview with Chairman of MUI Medan, April 2017.

<sup>32</sup> Excerpted from *Focus Group Discussion* with FUI member Medan City, March 2017.

argument has been pocketed the approval of MUI Medan, Pemko Medan as well as the police and willing to compensate.

The ummah's resolution to their clerics in the case of the displacement of the polarized mosque to two forms is closed and open. They openly fight through demonstrations, mobilize the masses, and even lawsuits. Indra Suheri as one of the FUI figures, stated that the demolition occurred related to the fatwa issued by Fatwa Commission of Medan MUI about Masjid At Tayyibah<sup>33</sup> repeatedly protests were carried out even in front of the Medan MUI Secretariat Office, after the Medan District Court (PN). FUI and the mass of action assume that the fatwan is nothing more than a deposit, at the expense of the people. Ulama is no longer an umara but has become a political tool, "said Indra Suheri, in his oration. Besides berorasi mass action also had held a theatrical action depicting the breakdown of mosques built on the land of wakaf since 1956. Unfortunately, the action was not responded by the MUI Medan by meeting the mass action. In this case, there are three parties acting as defendants, among them PT Multatuli Indah Lestari as the first defendant, in addition, MUI as the second defendant and added by the Police as the third defendant who has agreed on the eviction of At-Tayyibah Mosque on the land of Wakaf which is located at Jalan Multatuli Medan Maimun District. Media reports said that in the moments of the trial not a few visitors who were overwhelmed with sadness and cried when they saw photos of the At-Tayyibah Mosque before being executed in 2006.<sup>34</sup>

Resistance of FUI masses against their clerics openly and openly to violence. In a trial in the District Court (PN) Medan, Thursday (06/09) led to the commotion. Not long after the trial was closed by a panel of judges, suddenly the mob attacked Pagar Hasibuan, one of the ulama of Indonesia Ulama Council.<sup>35</sup> Reported by the media that the masses who cons with the mosque's breakthrough argue with the defendant. From the beginning of the trial, the circumstances outside the court were not conducive, the mass yelling and rebuking Pagar Hasibuan. "What is the basis for you to issue a fatwa?," other than rebuking them also verbally abuses Pagar Hasibuan. The situation became increasingly out of control and MUI representatives sought to secure security especially from the angry masses.<sup>36</sup>

This chaos itself, allegedly due to one of the defendants said, the mosque according to the heirs is not a waqf. Though the heirs themselves are never presented as a witness in this trial. In the trial itself, presented an expert witness Hasyim Purba from USU. In front of the Panel of Judges, Hashim said, based on the rules, wakaf remains legal even though not certified. As long as on the ground were built mosques or houses of worship, then there is no reason to forbid anyone else to worship in it. "It remains a wakaf as long as the mosque is managed and prospered with worship activities, although not yet certified," Hasyim said. This statement is kind of mengasikan decision MUI fatwa who is not keen to see legal issues. The witness also revealed that in case of demolition of the mosque and replacing it elsewhere there is a procedure. "The mosque can be dismantled, if for the public interest or the benefit of the people." In this context the MUI Fatwa itself has no power or becomes the basis of mosque breakdown. Then, Hasyim added that the issue of whether or not a fatwa should be issued should weigh the background and rationale of why a fatwa is issued.

Added witnesses, the replacement of wakaf land status must get approval from the Ministry of Religious Affairs and the Indonesian Wakaf Board, the execution of wakaf land is not enough only the recommendation of MUI Medan City. Wakaf status changes are also very selective. After the approval of several parties, re-formed the team to calculate the worth is not transferred and the successor mosque.

Meanwhile, dozens of Multatuli people screamed hysterically after listening to the testimony of other witnesses, Ahmad Zuhri who was also presented at the hearing yesterday. The reason, IAIN lecturer's information is considered highly controversial. In fact, due to his expression, people who are also worshipers of the At-Thaiyyibah Mosque want to attack Ahmad Zuhri. The masses screamed hysterically and invited the attention of journalists and other court visitors. "Allah is the Greatest, Allah is the Greatest. O Allah curse this man," the crowd shouted. In his statement, Ahmad Zuhri who was presented as a witness representing the defendant II namely MUI Medan said he joined the team to formulate a fatwa on Istibdal. According to him, the fatwa issued by MUI related to the permissibility of the mosque was moved and built a new one. "The fatwa can be implemented, it's okay," he said. Apparently fatwa MUI Medan city was followed by the developer of PT Multatuli Indah. In the fatwa, there are listed three important points. However, strangely there is no word of dismantling or destroying the old order and replacing it with shop. The first point mentioned, the new mosque qualifies as a substitute for the old mosque building. The new mosque is suitable to fulfill the pertapakan replacing the old mosque confrontation has been there before. New mosques can be held worship activities such as the existence of previous mosques and other mosques.

<sup>33</sup><http://sumutpos.co/2012/09/12/mui-medan-terus-dikecam/> accessed 27 September 2017.

<sup>34</sup>Ibid.

<sup>35</sup><http://sumutpos.co/2012/09/07/massa-pukuli-pengurus-mui-kota-medan/> accessed 27 September 2017



MUI responded to the opposing fatwa and then sued in court.<sup>37</sup> In his statement to the media, MUI explained that the process of issuing fatwas by the Fatwa Commission of Majelis Ulama Indonesia (MUI) of Medan City is always based on people's demand for something that develops in society.<sup>38</sup> From the petition then the MUI Fatwa Commission of Medan followed up with the work of collecting facts in the community around the Thoyyibah Mosque, then review in full and in-depth for two years, both in terms of Shari'a and state law so that out MUI Fatwa Medan. He also emphasized that members of the fatwa commission and other commissions at MUI are Muslim scholars and intellectuals who are experts in their field, so that the decision taken is a joint decision that must be approved by the plenary meeting held every third week. Theoretically the mechanism of expenditure, fatwas can not be canceled any party but can only be juxtaposed with different fatwa. That is, the public can ask for a fatwa again in the same matter. However, this work also still leaves a problem about to whom the community ask another fatwa, because in Indonesia the Fatwa issued officially only from a single path that is MUI institutions.

So, why there is resistance to the fatwa? Where does identity politics work in conflict between local governments in this case represented by Developers with groups of Muslims represented by FUI? this case at least describes how religious identities based on theological and sociological justification work in responding to those who are perceived to be involved, especially within the Muslim community. With the developers, the issue of ethnicity becomes part of the driven, especially developers in this case represented by ethnic Chinese, ethnic which was already constructed as ethnic immigrants.

Development politics in the city of Medan often clash with the symbols of Muslims, this is because the spatial city of Medan which from the beginning is not well designed. For example, the provision in which the location as a trade and business center, then, where should be a convenient place for educational, social and cultural activities. This arrangement allows for order and even social health of the community. If the structure of the city is not well ordered then the residents who live in it will be easy to stress, irritable, irritable. In addition, a lame structure, which also describes unequally social economic will lead to social jealousy, increased crime and drug use.

The city of terrain now, when viewed from the spatial structure of the city can be regarded as a worrying city as a city of the future. In addition, the city is experiencing the strengthening of development orientation as a pure business city. This tendency eliminates the identity of a city that is also inhabited by humans, where they need a softer structure such as green open spaces, clean river streams, public spaces that are a relief. The dominance of business groups and urban elites utilizes parts of the city that are in fact inappropriate for business activities. Therefore, the city government can suppress the negative impact of the dominant structure and business space in the city by way of balancing with social space and culture. Moreover, besides Medan is claimed as multiethnic city he is also multiagama, so efforts to balance the structure of the city with the values that are developed and glorified in the community should be able to become the ultimate and the orientation of development.

#### **IV. Conclusion**

Religion in developmental conceptions is an important variable in third countries, since religion is an integral part of society, no matter what social, political situation exists. In religious life, religious figures belonging to religious institutions such as MUI for Muslims must contribute to development, but with a clear measure and based on considerations that embrace the principles of justice. In the case of the mosque's Istibdal fatwa in Medan, MUI of Medan city faced a dilemma, because development in its realization often clashed with religious symbols, especially places of worship, therefore fatwas became part of the production, even though the fatwa caused the polemic and rejection from some people. Fatwa and development in sociological tatarasan become part of the process of social legitimation because it is part of the collective identity of society. In the future, the fatwa should pay attention to the sociological aspects of development faced with religious symbols, so that the resistance to the ulama does not happen which can ultimately undermine the religious scholars in the presence of the ummah.

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<sup>37</sup>For example, the Fatwa of MUI No.192 / Kep / MUI / Medan / 2007 dated 26 April 2007 on Istibdal (replacement) issue of Thoyyibah Mosque of Jalan Multatuli Medan which was moved to the location not far from the old mosque at the request of the official of Mosque Welfare Agency (BKM) Thoyyibah and communities around the mosque.

<sup>38</sup><http://www.medanbisnisdaily.com/news/read/2013/02/28/15366/mui-medan-fatwa-selalu-didasarkan-permintaan-masyarakat/> diakses tanggal 27 September 2017.

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