

Challenges in Fatwa Management in Terengganu, Malaysia

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Abstract

The institution of fatwa (ruling) is considered important as society requires solutions to various religious issues in life. In the context of Malaysia especially the state of Terengganu, the persons authorized to provide such solutions in any religious issues are the muftis, who are appointed by the government. However, does the institution of fatwa have a good system in the management of fatwa issuance such that they are disseminated to the society effectively and efficiently? Are there problems and challenges faced by the institutions that need to be resolved to ensure that fatwa issuance is an effective method in addressing religious problems in the Muslim community? The primary method used in this study was field studies and analysis of literature materials. Information and data gained from the study were analyzed qualitatively. This article therefore will put forward several challenges faced by the institution of fatwa and propose steps in solving them in the management of fatwa in Terengganu. The result of this study identifies some challenges faced by the Terengganu fatwa institution which requires attention. The authors herein suggest possible solutions to the problem so as to make the institution more credible and respected by society.

Keywords: challenge; fatwa management; Terengganu;

1. Introduction

Aside from the judiciary and the government, the institution of *fatwa* issuance plays an important role in expanding Islamic law (Yaakob, 2000). This leaves an impact to the extent that it is able to form customs and tradition for a particular community such as the Malays (El-Muhammady, 1982). In Malaysia, the institution of *fatwa* had long been established and is considered as one of the sources in Islamic legislation in addition to the written *shari'ah* enactments of this country. Although the function and roles of this institution differ from the Islamic Religious Council and the Shari'ah Courts, from the legal aspects, it still has its own power and authority as prescribed by the law of each state. Besides, the institution has its own role and a high level of commitment in the resolution of any disputes in law (Yunus, 1991).

The institution of *fatwa* in Terengganu is amongst the few points of reference for the government and the local

Muslim community to obtain rulings and their clarifications in religious matters and their daily activities. The institutions which can issue *fatwas* in Terengganu are the State *Mufti* and the Terengganu State Fatwa Committee and they have issued many *fatwas* and clarifications on rulings in various areas (Hassan, 2009). Samsuddin (2009) had made several suggestions to the institution of fatwa to ensure that each *fatwa* issued is in compliance with the *shari'ah* and able to preserve its credibility. Hence, each gazetted *fatwas* must be implemented professionally and a fatwa education program must be comprehensively disseminated at each level of society, in order to avoid any dispute on the *fatwa* issued.

In addition, Samsuddin (2009) emphasized that muftis cannot escape the possibility of mistakes being made in the issuance of *fatwas* as there are factors which may cause them such as misinterpretation of the texts of al-Quran and the *sunnah*, misunderstanding of the text and hastiness in issuance of the fatwa, and so on. Terengganu was chosen as the location of this study because, as stated by Hooker (1993), Terengganu was one of the states with the highest number of *fatwa* issuance recorded, next to Johor. He further clarified that among the factors which led to the high number of fatwa being issued in Terengganu and Johor was the serious attention given by the religious administrators of these two states to the institution of fatwa.

This begs the question whether or not the institution of fatwa in Terengganu plays an active and efficient role in handling current developments? Do these institutions have a good management system to ensure that the *fatwas* are disseminated to society in an effective and efficient manner? Are there any problems or challenges that need to be resolved to ensure the effectiveness of the fatwa institution in resolving religious issues in the Muslim community? The main method used in this research was a field study and an analysis of previous literature on the matter. Data collected were analyzed and qualitatively coded using the content analysis technique. The analysis was also conducted by determining the theory/hypothesis from the data compiled (grounded theory), extracting hidden information within the text (discourse analysis), scrutinizing indicators such as words, body language and others (semiotic) and understanding over an individual's perspective, views and experience.

2. Challenges

There are several challenges faced by the institution of *fatwa* in Terengganu which need to be given attention and resolved by all parties in order to ensure that it becomes an important institution in a Muslim society and reference point in carrying out daily activities. Among the identified issues are:

2.1 Incomplete Documentation of the Fatwa

Many *fatwas* issued in Terengganu have neither been compiled nor have they been properly and comprehensively documented, since the establishment of the fatwa institution in Terengganu. In fact the authors found that *fatwas* issued before the time Sheikh Sayyid Yusuf 'Ali al-Zawawi held the *mufti* office have not been recorded and documented in a comprehensive and orderly manner (Hassan, 2009). There exist a significant number of *fatwas* which are still in the form of minutes of meetings, even though from the author's viewpoint they should be compiled into a book and distributed to society in the form of printed or electronic media. In fact, some of this type of *fatwas* overlapped with and had been mixed with the question and answer type of *fatwas* in a particular book or document. This can lead to non-standardization in the classification of the types of fatwa.

A large number of *fatwas* issued in the form of questions and answers were not properly dated as to when they were issued. What the authors did obtain was a period of dates based on the length of time a Mufti held his position without determining the exact date when the fatwa was issued, except for *fatwas* which have been gazetted and minuted. Examples of fatwa which only mentioned the year of the *fatwas* are the '*Fatwas* of the State Mufti of Terengganu' from 1372-1389 A.H. equivalent to 1953-1970 A.D. by al-Zawawi (Undated), published by Jabatan Hal Ehwal Agama Terengganu, '*Himpunan Jawapan Kemusykilan-Kemusykilan Agama*' [Collection of Answers to Religious Queries] by Jabatan Mufti Negeri Terengganu (1998), '*Fatwa Mufti*' by Jabatan Hal Ehwal Agama Terengganu (2000), Collection of Answers to Religious Queries by Ambak (2001) published by Majlis Agama Islam dan Adat Melayu Terengganu. Whereas the collection of *fatwa* that were clearly dated are the Fatwa Decisions of State of Terengganu issued in the Minutes of Meetings of the Committee of Muslim Scholars/Fatwa of the State of Terengganu from the years 1956 to 2006, and also gazetted *fatwas*.

This made it harder sometimes for the researcher to understand the background of the questioner and the social aspects and circumstances when the *fatwas* were issued. Understanding these aspects is crucial to further ensure that the *fatwas* issued at that time truly meet the current needs then. From the authors' observation, the number of *fatwas* issued and recorded in the period a particular mufti held office was illogical. For example, during the times of Mufti Dato'

Indera Guru Wan Abdul Manan, there were 131 *fatwas* issued while he was in office for 13 years. Out of the *fatwas* issued, *fatwas* related to *shari'ah* were the most in number followed by *Usuluddin* (theology) and social-related *fatwas*. Table 1 below shows the statistic of *fatwas* issued by the *Mufti* according to fields and types of *fatwas*.

Table 1. Statistic of Fatwa Issuance by Islamic Studies Discipline (1976-1988)

Field of Islamic Studies	Gazette	Minutes of Meeting	Q & A	Total
Shariah (Law)	-	31	68	99
Usuluddin (Theology)	-	13	3	16
Social Affairs	-	9	7	16
Total	-	53	78	131

Table 1 shows that most *fatwas* issued was *shari'ah* related which amounts to 99 *fatwas* or 75.58 per cent of the total of *fatwas* issued by the *Mufti*/Committee of Fatwa. This is followed by theological and the social related *fatwas*, i.e. each with 16 *fatwas* or 12.21 per cent. Based on Table 1 above, question-and-answer type *fatwas* were issued more frequently. 78 issued *fatwas* or 59.54 per cent compared to minute-based *fatwas*, which are 53 *fatwas* or 40.46 per cent, while not a single fatwa was issued in the form of gazette. If one looks from the perspective of the form of *fatwas* issued, the field of *shari'ah* produced many *fatwas* in the form of questions and answers, amounting to 68 *fatwas* or 87.17 per cent as compared to the field of Social Affairs, which is, 7 *fatwas* issued or 8.99 per cent. Meanwhile the field of *Usuluddin* had the fewest number of *fatwas* issued in the form of questions and answers, being 3 or 3.84 per cent.

Based on the table above, *shari'ah-related fatwas* in the form of minutes of meeting were the most produced compared to the less numbers produced in the field of *Usuluddin* and Social Affairs. As many as 31 *fatwas* or 58.49 per cent were minuted under the field of *shari'ah* compared to the field of *Usuluddin* where only 13 *fatwas* or 24.52 per cent were produced and in the field of Social Affairs, where 9 *fatwas* or 16.99 per cent were produced. Additionally, for *syariah-related fatwas*, question-and-answer type *fatwas* were the most produced, with 68 *fatwas* or 68.68 per cent of the total amount, compared to the *fatwas* produced in the form of minutes of meetings, being only 31 *fatwas* or 31.32 per cent. This situation is different from the field of *Usuluddin* and Social Affairs. The issuance of *fatwas* in the field of *Usuluddin* in the form of minutes of meeting were most frequent with 13 *fatwas* issued or 81.85 per cent compared to the *fatwas* issued in the form of questions and answers, being only 3 *fatwas* or 18.15 per cent. Social Affairs – related *fatwas* produced in the form of minutes of meetings formed the largest portion; that is 9 *fatwas* or 56.25 per cent compared to the question-and-answer type, which is 7 *fatwas* or 43.75 per cent.

Based on the above statistics, it is clear that *shari'ah-related issues* was frequently focused on by the society at the time, as it relates much to rules in the Muslim community in Terengganu. Having said that however the field of *Usuluddin* and the Social Affairs were also considered as important as they also faced issues related to *Usuluddin* and daily affairs. A similar illogicality can be said with respect to the number of *fatwas* issued during the term of Dato' Dr. Hj. Muhammad Zubair Awang. He had held the state mufti office for only one year. However, in the authors' opinion, the 6 *fatwas* produced under his term does not reasonably correspond with the term held. In fact, not even one *fatwa* with respect to *zakah* was produced, whether in the form of gazette, minutes of meetings, or questions and answers.

From the *fatwas* that could be compiled during the term of Dato' Dr Hj. Muhammad Zubair Awang only *fatwas* in *Usuluddin* and *shari'ah matters* were produced. Not a single fatwa was produced in the field of the Social Affairs. Based on the analysis, *shari'ah* related *fatwas* were the most produced, with 5 *fatwas* or. 83.33 per cent and *Usuluddin* related only produced a single fatwa or 16.67 per cent. These statistics can be seen in Table 2 as follows:

Table 2. Statistics of Fatwa by the Islamic Studies Disciplines

Field of Islamic Studies	Gazette	Minutes of Meeting	Q & A	Total
Shariah	1	4	-	5
Usuluddin (Theology)	1	-	-	1
Social Affairs	-	-	-	-
Total	2	4	-	6

Based on Table 2 above, it can be seen that only *fatwas* in the form of gazette and minutes of meetings were decided by the *Mufti* and the Committee of Fatwa. Not a single fatwa had been produced in the form of questions and answers. It is clear that in *shari'ah* related matters, *fatwas* in the form of minutes of meetings, formed the largest number with 4 *fatwas*

or 80 per cent compared to gazetted *fatwa*, which only had 1 *fatwa* produced, or 20 per cent. Whereas in the field of *Usuluddin*, only gazetted *fatwas* were produced, and there were none in either minutes of meeting or the questions and answers form. Hence the small number of *fatwas* issued should not occur as it is one of the institutions which can clarify the rule of Islamic Law to the Muslim community. The lack of *fatwa* and explanations of the rulings from the mufti and the Committee of Fatwa can lead to problems facing the society, in carrying out their daily activities, in particular when determination of rulings are involved.

2.2 Inappropriate Procedures of Fatwa Issuance

Based on the observations made, the process of issuing *fatwas* in Terengganu by the Mufti or the Committee of Fatwa in Terengganu remains closely bound to 1955, 1986 and 2001 of The State Enactment of Administration of Islam (Terengganu). The enactment stated that all the *fatwas* that have been issued must be based on the views of Shafi'i *mazhab* (Terengganu, The Administrative Laws of Islamic Law 1955 (1357) (Law No. 4 of the year 1955), Clause 21 (1); The State Enactment of Administration of Islam (Terengganu) (No. 12/1986) Section 26(1)). In the issuance of *fatwa* procedure, the principal determining views are those of the Shafi'i *mazhab*. In fact, certain opinions also considered the *qawl da'if* of the *mazhab*. However, if a dispute cannot be solved under the Shafi'ite school of jurisprudence, the Mufti and the Committee of Fatwa may then adopt any other views from *fuqaha*' of other schools of jurisprudence if it can solve the problems in the society. They can also determine the ruling based on *ijtihad* (individual/personal interpretation) if the particular issues have not been previously discussed by the *fuqaha*' (Section 54 (3), The State Enactment of Administration of Islam (Terengganu) 2001).

However, if we look at the provisions under the Enactment, it appears that a more flexible procedure is provided to the Committee of Fatwa and the mufti to accept any opinion from any *mazhab* recognized by the Ahl al-Sunah wa-Jama'ah. In actual fact, the Committee of Fatwa and the Mufti are allowed to accept any opinions outside of these 4 *mazhabs* and to determine the rules by way of *ijtihad* if the particular query had not been previously discussed by earlier Muslim scholars. This shows that the Committee of Fatwa and the Mufti had the freedom to decide the appropriate method and procedures to resolve any issues occurring in the society, based on the public need and interest. Hence to be strictly dependent on the Shafi'ite *mazhab* seems to be rather unreasonable in the practice of issuance of *fatwa*, even though it may affect public interest.

In the opinion of the authors, if the committee of *fatwa* and mufti wishes to give priority to the Shafi'ite *mazhab* when determining any *fatwa*, then the priority is suitable for the native residents and the general residence of Terengganu. However, it will not be appropriate to apply the same in the Muslim community especially amongst those are followers of the non-Shafi'i *mazhab* especially foreigners who are in Terengganu to work or study. This can cause difficulty for them to seek clarification on Islamic rulings from the Mufti and the Committee of Fatwa if priority is given to the Shafi'ite school of thought in determining the *fatwa*. In addition thereto, in determining a *fatwa*, especially those which require gazetteing or need to be discussed in a meeting, a considerable length of time is usually involved before any resolution can take place. This is because the provisions of the Enactment had inserted additional and specific procedures in *fatwa* issuance by the Committee of Fatwa as a result of several matters. This will affect the credibility of the institution of *fatwa* and cause difficulty for the public, in carrying out their daily affairs, to obtain clarification of the rulings, particularly in matters involving *halal* (permissible/lawful) or *haram* (forbidden/unlawful).

Thus, the majority of the community opt for the easier and faster method by asking their questions through the telephone, email or by way of direct visit to the Department of Mufti to get explanation from the Mufti or the officer from the Department of Mufti (Taufek, 2004). This however may have a less than satisfactory implication on the strength of the *fatwa* and clarifications of the ruling as there is the possibility that the Mufti and the officers involved are not well prepared to resolve the issues.

2.3 Majority of the Fatwas are Not Enforced

According to the statistics and research done by the authors, most of the *fatwas* issued by the Mufti and the Committee of Fatwa were enforced on the Muslim community by the government of Terengganu, as only 6 *fatwas* had been gazetted in Terengganu from the year 1994 to 2005. Majority of the *fatwas* that were issued were in the form of question and answer and minutes of meetings. Furthermore the gazetted *fatwa* involved *aqidah* (faith) and only a small part involved the aspect of *shari'ah*. Hence the majority of the *fatwa* issued by the Mufti and the Committee of Fatwa appears to be mere guideline and the Muslim community is free to adopt them or do otherwise as there are no repercussions for failure to abide by the *fatwas*. This can be explained through Table 3 below.

Table 3. Statistics of Fatwa in Terengganu (1953-2005)

Field of Islamic Studies	Gazette	Minutes of Meeting	Q & A	Total
Shariah	2	239	833	1074
Usuluddin (Theology)	4	27	137	168
Social Affairs	-	91	180	271
Total	6	357	1150	1513

Based on Table 3 above, it is clear that the *fatwas* that have been produced in the form of question and answer formed the highest amount, with 1150 or 76 per cent compared to those produced in the form of minutes of meeting with 357 *fatwas* or 23.59 per cent and *fatwas* in the form of gazette with 6 or 0.41 per cent. Looking at the forms of fatwa which has been issued in the form of gazette, the field of *Usuluddin* had the highest number of *fatwas* compared to the *fatwas* in the field of *Shari'ah*. In the field of Social Affairs, none was issued in gazette form. As many as 4 *fatwas* or 67 per cent were gazetted in *Usuluddin* compared to those in the field of *shari'ah* which were 2 *fatwas* or only 33 per cent. From the above statistics, it is evident that *shari'ah* is an area in which the public often raise their query to the *fatwa* institution in Terengganu. It is necessary for the Committee of Fatwa to take this matter seriously so that the society will not disregard the practice of the *fatwa*, by looking at the suitability of *fatwas* in *shari'ah* for gazettement.

Similarly, in the context of developing government policies of strengthening the faith of the Muslims, the Committee of Fatwa should take a serious note in *Usuluddin*-related *fatwas* so that they can be enacted according to the government policy needs. The lack of enforcement of *fatwas* will lead to the society's non-compliance with the majority of the *fatwas* issued on the grounds that they have not been gazetted by the government. Whereas a gazette of a *fatwa* reflects the authority it carries. Those *fatwas* with such authority can bind Muslims legally to comply with it and not breach it. Hence, *fatwas* which do not have authority cannot be enforced and it is therefore not wrong for Muslim residents of Terengganu to not follow them. This is a disadvantage to the Government and adversely affects the efficiency of each *fatwa* which has been issued by the Mufti and the State Committee of Fatwa. As an example, the fatwa about "only Government appointed 'amil (*zakat* collectors) are allowed to collect the *zakat*" was not gazetted, and this can lead to losses to the government and affects *Baitulmal* revenue from *zakat* that can be distributed to needy *asnaf*.

As the authors sees it, this situation should not have occurred because the institution of fatwa is considered critical in clarifying rules in Islamic law to the Muslims which are always facing current issues including *fatwas* on *zakah*. Hence, *fatwas* which do not carry the authority as issued by the Mufti and Committee of Fatwa are assumed to be an important reference source to clarify the Islamic rulings even though the Muslims have the freedom not to adopt it. As a consequence, it will affect the credibility of the institution of *fatwa* through the public eyes. It can also lead those who do not understand the rules of *shari'ah* (Islamic Law) to do negative deeds and go against the rules of *shari'ah*. Therefore it is the enforcement of *fatwa* on *zakat*, and other *fatwas* that can save society from misdeeds which are forbidden in *shari'ah*.

2.4 Incomplete Explanation of Fatwa

Amongst the deficiency found in a small number of *fatwas* issued were the absence of detailed and complete reference or sources of *hokum* used. Furthermore, a number of *fatwas* issued and documented were too simple without proof and arguments of the law as discussed in the meeting of the Committee of Fatwa. *Fatwas* which are based on *daleel* (proof) and contention whether through al-Quran, *hadith* or fuqaha's view are important not only for the institution of *fatwa* but also the local society. The completeness of a fatwa is measured against three main factors (Kasan, 2000):

- The careful understanding by the issuers of fatwa of the problem and their ability to adapt to the current reality.
- In-depth and thorough research had been done on matters related to the issues.
- Explanation and detailed clarification of the ruling with proof and contention of the decided *hukum*.

For example, the fatwa about a person reciting the Quran unmelodiously, is he not from the followers of Rasulullah? In responding to that question, the Mufti simply replied "no" without elaborating or giving further proof or reference (Jabatan Hal Ehwal Agama Terengganu, Undated). The other example is on *talaq* (divorce) by *ta'liq* (conditional divorce). In giving the answer, the mufti only declared "divorced on one *talaq*" without elaboration and references (The Terengganu Council of Islamic Religion of Islam and Malay Custom1, 2001). This can lead to the *fatwa* being weakened and less acceptable by the society especially for those who have educational background in Islamic Law. In fact, even some members of the public may hesitate to accept a *fatwa* if the explanation of the *fatwa* by the Mufti or Committee of Fatwa is too simple and unsatisfactory.

Other than that, the majority of the *fatwas* do not mention the source of the reference and underlying law. As an example, in the issues of *zakat*, many of the *fatwas* issued by the Mufti and Committee of Fatwa did not mention the Muslim scholars' views or source of reference from any book of *fiqh*, whether from the Shafi'i *mazhab* or otherwise (Hassan, 2009). Statistically, it can be concluded that the *fatwas* issued without any reference or Muslim scholars view formed the highest number with 89 *fatwas* or 79.8 per cent of the total *fatwas* (Hassan, 2009). This matter sometimes can lead to the society and specifically a researcher, to question whether a fatwa is issued pursuant to the *ijtihad* of the Mufti and the Committee of Fatwa or based on the opinion of the previous or contemporary *fuqaha*, whereas stating the reference or justification of a fatwa is required so that the *mazhab* being followed can be identified.

2.5 Overlapping of Fatwas and Conflicts in their Practice

There are some elaborations in several *fatwas* which are considered to overlap in a particular case, such as the fatwa in *zakat* distribution to non-government appointed '*amil*'. This involved *fatwas* in question no 35, 59(1), 108(2) and 157(4) in '*Fatwas of the Terengganu Mufti from 1372-1389 A.H. equivalent to 1953 to 1970 A.D.*' or '*Fatwa-Fatwa Mufti Kerajaan Negeri Terengganu daripada tahun Hijrah 1372-1389 bersamaan tahun Masihi 1953-1970*' by al-Zawawi (Undated). Overlapping also occurred to the questions 68(2) and 68(3) in the same collection of *fatwas* about *zakat* on profits (dividends) paid by a company to the shareholders which invest in shares of Majlis Amanah Rakyat (MARA), the Employee Provident Fund or the like.

The same problem also occurred when Mufti Y.M. Pangiran Arif Diraja Dato' Engku Haji Alwi bin Engku Haji Ambak Al-Idrus held the position, in the Minutes of the 7th Meeting, 4th Term, 25 Rabiul Awal 1419 equivalent to July 19, 1998, 4th query in the Collection of Answers to Religious Issues and in the Minutes of the 12th Meeting, 3rd Term, 6 Rajab 1416 equivalent to November 29, 1995. The same problem also occurred in *fatwas* on *nisab* (*zakat*-payable amount or value). The *fatwas* were in questions no. 137 (1) and 137 (2) in '*The Fatwas of The Terengganu State Mufti (from 1372-1389 A.H. equivalent to 1953-1970 A.D.)*' or '*Fatwa-Fatwa Mufti Kerajaan Negeri Terengganu (daripada tahun Hijrah 1372-1389 bersamaan tahun Masihi 1953-1970)*' (al-Zawawi, Undated; Ambak, 2001).

Among *fatwas* which have similarities in terms of explanation of the ruling were about someone who missed the deadline to pay the *zakat* but has fulfilled its conditions, as deliberated in questions no. 68(6) and 99 in '*The Fatwas of The Terengganu State Mufti from 1372-1389 A.H. equivalent to 1953-1970 A.D.*' (al-Zawawi, Undated). The same problem also been stated to the question no. 16(a) in '*The Fatwa of Mufti*' and fatwa in question no. 6 in Minutes of 1st Meetings, 5th Term, 13 Syaaban 1420 equivalent to November 21, 1999 on tithe of saving money which has been stated above. Even though the fatwa that has been take out on this problem is different in term of year and mufti and Committee of Fatwa. This problem also occur on the fatwa about tithe on saving money which is kept in any monetary institution that is in three (3) *fatwas* in problems no. 68(8), 68(10) and 86(1) in '*The Fatwas of The Terengganu State Mufti (from the Hejira Years 1372-1389 equivalent to 1953-1970 A.D.)*'. The problem also occurs in *fatwas* on *zakat* and income tax in questions no. 68(11) and 94(4) in '*The Fatwas of The Terengganu State Mufti (from the Hejira Years 1372-1389 equivalent to 1953-1970 A.D.)*' (al-Zawawi, Undated).

Meanwhile, *fatwa* on the use of *zakat* for management expenditures related to governmental matters such as *fatwas* in Minutes of the 9th Meetings, 5th Terms, 21 Safar 1422 equivalent to May 15, 2001, Minutes of the 8th Meetings, 5th Terms, 1 Zulhijah 1421 equivalent to February 25, 2001 and in Minutes of the 3rd Meetings, 6th Terms, 23 Zulkaedah 1423 equivalent to January 26, 2003, also have the same conclusion to the *hukum* in question. The same problem also occur at the fatwa in Minutes of the 8th Meetings, 5th Terms, 1 Zulhijah 1421 equivalent to February 25, 2001 and fatwa in the Minutes of the 4th Meetings, 6th Terms, 19 Jamadil Awal 1424 equivalent to August 17, 2003 which discuss on the distribution of tithe for the purpose of *sinf fi sabil Allah*.

There were some of the legal decisions which seemed to be contradictory to each other in answering the same problem. This was found in questions no. 68(11) and 94(4) in '*The Fatwas of The Terengganu State Mufti (1372-1389A.H. /1953-1970A.D.)*' and *fatwas* no. 94(5) in '*The Fatwas of The Terengganu State Mufti (from 1372-1389 A.H. equivalent to 1953-1970 A.D.)*' (al-Zawawi, Undated). The matter in question is about someone who does not have to pay the government tax when *zakat* is already paid. In problem 94(5), it's argued that the receipt that shows the payment of the *zakat* can be shown to the government to avoid taxation whereas in problems 68(11) and 94(4) it was said that *zakat* and taxation are the two different responsibilities.

Similar contradiction is found in the *fatwa* in Minutes of the 12th Meetings, 4th Terms, 30 Muharram 1420 equivalent to Mei 16, 1999 and fatwa in Minutes of the 8th Meetings, 5th Terms, 1 Zulhijah 1421 equivalent to February 25, 2001. The issue was on the permissibility of taking out a portion from the profit from *zakat* kept in monetary institutions. In the first instance, the Mufti and Committee of Fatwa have decided that the profit or *hibah* (grant) money

from the saving investment using *zakat* money is considered part of the *zakat* fund. Therefore, the money must be returned to the *zakat* account and spent only in the interest of zakat recipients. The second *fatwa* on the other hand said that anything that is needed by the zakat department can be taken from *zakat* investment profit. This shows discordancy between these two *fatwas*.

The fatwa in Minutes of the 8th Meetings, 5th Terms, 1 Zulhijjah 1421 equivalent to February 25, 2001 contradicts with the fatwa that has been produced before in Minutes of the 2nd Meetings, 4th Terms, 10 Ramadan 1417 equivalent to January 19, 1997. The fatwa was on forbidding zakat money or property from being invested by vested authority into any monetary institution. From the authors' point of view, this contradiction occurred to suit the situational and social needs at that time and the explanation of the ruling had been made. Thus, the problem of overlapping of and contradictory *fatwas* can create confusion in choosing between these *fatwas*. This can tarnish the credibility of the *fatwa* and stunt the management of the *fatwas* if it is not properly solved.

3. Proposed Solution

To address the challenges stated above, the authors have identified improvement measures to maintain the credibility of the *fatwa* institutions in Terengganu and improve its public perception. The authors therefore present herein several suggestions and recommendations as follows:

3.1 To Completely Collect, Arrange and Document the Fatwas

To reduce the problems of *fatwas* that have been issued but have not been perfectly organized and completely documented, the authors suggest that The Department of Mufti in Terengganu to try to obtain materials from any party who used to keep and collect the previous *fatwas* since the setting up of the institution of fatwa in Terengganu especially from those who have held the post of Mufti or served in the Committee of Fatwa before. Thus the *fatwas* before the time of Shaykh Sayyid Yusuf 'Ali al-Zawawi must be recorded and documented orderly and completely even though the number of the fatwa is not deemed accurate nor impressive. Besides that, *fatwas* in the form of minutes of meetings must be documented and distributed to the society through the printed or electronic media. Furthermore, efforts must be further enhanced by the Department of Mufti in Terengganu to classify all the *fatwas* including the *fatwas* on *zakat* so that it will not mix with or overlap with the question-and-answer type *fatwas* in a document or book. This can lead to standardization in classifying forms of fatwa and give clarity to the society.

Regarding *fatwas* in the form of questions and answers which were not dated, the authors suggest that the date of issuance of each of the fatwa must be recorded. Such records may make it easier for researchers to understand the background aspect of the questioner and social aspect of the society along with the situation at the time the fatwa was issued. This is essential in order to ensure that *fatwas* issued meet the current needs of the time. In relation to the unreasonable number of *fatwas* that have been issued during certain a mufti's period in office, the authors suggest that the Department of Mufti in Terengganu attempt to update and select any fatwa which is eligible to be documented to be inserted in a book series of *fatwas*.

3.2 The Procedure of Fatwa Issuance Should be Adapted with Current Needs

In order to ensure the process of issuing a fatwa including the fatwa related on tithe by the mufti or the Committee of Fatwa in Terengganu which is bound by The State Enactment of Administration of Islam (Terengganu), the authors suggest that the State gives leniency to the *Mufti* and the Committee of Fatwa to issue *fatwas* in which consider the views of other *mazhab* than Shafi'i *mazhab*. This is to meet the current needs as the Muslims in Terengganu are not only from those followers of Shafi'i *mazhab*, especially foreigners who come to study and work in Terengganu. This can facilitate them to obtain an explanation of the Islamic ruling from the *Mufti* and the Committee of Fatwa.

In fact, The State Enactment of Administration of Islam (Terengganu) needs to empower the *Mufti* and the Committee of Fatwa to determine any Islamic ruling even though the ruling is not in tandem with the final opinion in Shafi'i *mazhab*. Moreover, the institution of fatwa needs to accept any *fuqaha's* opinion even from those outside the Shafi'i *mazhab* if reasonable with the circumstances. The *Mufti* and the Committee of Fatwa should exercise the given leniency in the enactment to accept and choose any opinion of the scholars other than Shafi'i *mazhab* and to determine the *hukum* via *ijtihad*.

However, if any of the fatwa involving the other *mazhabs* is to be presented to the public or enforced, the authors would advise that caution and limitation must be exercised in order to protect the harmony of the Shafi'ite Muslim majority

community to avoid confusion and conflict in their daily activities. The time taken from the tabling of a *fatwa* in a meeting to the *fatwa* being gazetted in the law should be shortened. This can be achieved if certain provisions and procedures in the state enactment are reviewed to give leniency and expedience to the fatwa institution in Terengganu in coming up with a certain fatwa. This exercise in the long term can elevate the credibility of the fatwa institution as well as provide convenience to the public who require urgency in resolving their daily affair issues.

With these steps suggested in this section to update and document the *fatwas*, the community should be able to refer to these documents and resolve their issues without the need to phone, e-mail or personally visit the Department of Mufti to get explanation of the *hukum* which would eventually put some working time of the Mufti and the officers involved to answer their problems to some inefficient use. Such working time could be fully used by the Mufti and the Committee of Fatwa to do research on other and new matters raised by the community which need to be resolved.

3.3 Critical Fatwas Need Enforcement

To empower some *fatwas*, it is suggested that The Department of Mufti should select critical *fatwas* for gazettelement to be enforced upon the Muslim community. Such *fatwas* are normally related to daily life affairs and practices which are generally accepted by the local community and they have no valid reason to reject the *fatwas* when they are gazetted. Gazetting the *fatwas* provides the authority the much needed empowerment to bind the Muslim community to the enacted law. Hence, fatwas which come with authority may be enforced and it is an offense to the Muslim society residing in Terengganu if they disobey the *fatwa*. This could benefit the government and increase the effectiveness of *fatwas* issued by the Mufti and the State Committee of Fatwa, especially those related to zakat. For example, when the fatwa on "only Government appointed '*amil* (*zakat* collectors) are allowed to collect the zakat" is gazetted, it will result in revenue collection to the government and will increase the zakat collection of *Baitulmal*, and thereby increasing the distributed zakat to the recipients in need of proper and adequate assistance. According to the authors' observation, this should be done to enhance the integrity of the fatwa's institution from the society's viewpoint in the sense that it can make those who break the law of Islamic rules be punished accordingly and hence protect the society from getting into a situation which is forbidden by the Islamic rules.

3.4 Explanations on Fatwas on Zakat Need to be Complete

In order to ensure that *fatwas* on *zakat* are complete and in order, the authors propose that the references and underlying laws of each *fatwa* must be recorded. In the meantime, *fatwas* that have been issued and documented must not be brief. Attempts must be done to explain the ruling and to avoid than answers like 'Yes' or 'No' or 'Valid' or 'Not Valid' without stating the evidence and legal arguments as discussed in the meeting of the Committee of Fatwa. Each fatwa should be backed by evidence and arguments either using the Qur'an, the Hadith or *fuqaha's* views so that the fatwa is solid and acceptable by the public, especially for those who have education background in laws or Islamic Law. Thus, the society will find it difficult to hesitate to accept any *fatwa* if the explanation of the *fatwa* is given by the *mufti* and the committee of *fatwa*, instead of the *fatwa* being unsatisfactorily brief.

The authors suggested that *fatwas* which do not mention the source of reference and underlying *hukum* be checked by the Terengganu State Mufti Department in order to accommodate the underlying laws either based on previous or contemporary *fuqaha's* views or on *ijtihad* of the Mufti and the Committee of Fatwa. It is necessary to do so to enable the Muslim society to understand the reasoning behind such fatwas and identify to which *mazhab* the *fatwa* belongs to. In addition, the *Mufti* and the Committee of Fatwa need to diversify the references in shari'ah, especially in relation to zakat practice, so that, they not only refer to books of *fiqh*, *usul al-fiqh* or *qawa'id fiqhiyyah* but also expend the reference to books of *tafsir* which explain *al-ahkam* verses or books of hadith which describes *ahadith al-ahkam*. This is necessary to make the *fatwas* more updated and comprehensive.

3.5 To Avoid Overlapping and Conflicting Fatwas

To overcome and avoid overlapping and conflicting *fatwas*, there are several solutions that need to be taken by the Committee of Fatwa and the *Mufti*. Among them is to identified and review the previous issues of fatwa which have been discussed whether or not they have been officially declared by the Committee of Fatwa and the *Mufti*. In the meantime, if there are overlapping and similarities of the issues, then there must be explanations on how relevant the second fatwa is even if both the first and the second *fatwas* have similarities. This is to ensure the society understand why the *fatwas* need to be issued. In addition, the Committee of Fatwa or the Mufti should be making improvements should there be any

deficiency in the first fatwa.

In solving the issue of conflicting *fatwas* or *fatwas* which appear conflicting to each other, the Committee of Fatwa or the Mufti must identify first if a conflict does occur. Hence, there should be no conflict if there is(are) difference(s) occurring in the issue of interest. This usually seems to be the case where the fatwas appear to be contradictory to each other. A good approach which can be applied by the Committee of Fatwa or the *mufti* is the method of coordination of both *fatwas*. This method is able to resolve conflicts in the fatwas that occurred. Al-Nawawi (1408AH) stated that if the *mufti* faces the same issue at two different times, he may eventually issue a fatwa with the same *hukum* on both times unless there is a lack of evidence and underlying laws on the first *fatwa*. In this situation, the mufti should make a better decision the second time the problem is discussed compared to the previous one.

If both *fatwas* are difficult to be coordinated or reconciled, then the second method which is the method of selection can be used. Based on this method, the Committee of Fatwa and the mufti can choose the more consistent and complete *fatwa* between the two. This is because, between these two contradictory *fatwas*, there must be circumstances in either one of them which give the *fatwa* the priority. This selection method will only be made if both *fatwas* have the same strength of the evidence and arguments.

However, if both methods fail, the Committee of Fatwa may use the abrogation approach. In other words, the latest fatwas allowed the annulling of the previous fatwa if both of them could not be standardized, coordinated or reconciled. However, the Committee of Fatwa and the Mufti need to observe the needs and the relevance of the annulment to simplify the practice of law in every affair of the Muslims' lives. Should the three approaches be not able to resolve the conflict, the Committee of Fatwa or the Mufti must ensure that the *fatwas* have different solutions due to the situational and conditional differences which call for differing solutions based on the objectives of the *shari'ah* (*maqasid al-shari'ah*).

4. Conclusion

From the perspective of accuracy with the Islamic Law and compatibility with current needs, an effort to empower and update the management and procedures of *fatwa* issuance is required to further strengthen the institution of *fatwa* in Terengganu, Malaysia. All challenges mentioned earlier on should be addressed properly to increase the effectiveness and the level of acceptance of the *fatwas*. This must be done to improve the credibility of the institution of fatwa as an institution that is respected and honored.

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