

Fatwa As a Mechanism for Social Cohesion in A Pluralistic Society in Malaysia

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Abstract

Fatwa is an Islamic legal decision issued by a mufti or a fatwa council that holds authority in the Islamic religion. Fatwa serves as a guide for Muslims in practicing Islamic law and addressing issues that arise in their daily lives. Fatwas can cover various aspects, including matters of halal and haram (permissible and prohibited), worship, marriage, transactions, and social issues. Muftis or fatwa councils will study and discuss specific issues and then provide their views on them. While fatwas are discussed from a religious perspective, they also take into account local customs and cultural aspects. Local customs and culture hold significant sensitivity that needs to be preserved to maintain harmony and cohesion in societies with diverse ethnic and religious backgrounds, particularly in Malaysia. Therefore, this paper discusses the role of fatwa as a mechanism for social cohesion and harmony in a pluralistic society, specifically in Malaysia. This study adopts a documentary research approach and utilizes content analysis as the analytical method. The study finds that Malaysia exhibits a diversity of cultures and religions, and fatwa plays a crucial role in ensuring that Islamic practices are in line with local customs and fostering unity among different communities. This paper found that Fatwa plays a crucial role in maintaining unity in Malaysia's pluralistic society. Malaysia is a country characterized by ethnic and religious diversity, and fatwa serves as a guide for Muslims in practicing Islamic law while considering the context of this diverse society. Fatwa plays a role in overcoming divisions and differences of opinion within the Muslim community itself. Fatwas issued by officially recognized fatwa bodies help to generate agreement and consensus among Muslims in practicing their religion. From other aspect, fatwa is the mechanism for unity in Malaysia's pluralistic society functions to ensure that the lives of Muslims align with the religious and cultural values of the local context, while fostering harmony and cooperation among diverse communities in the country.

Keywords: Fatwa, Social Cohesion, Society, Islamic

INTRODUCTION

Fatwa is a legal decision in Islam issued by a mufti or a fatwa body that holds authority in the Islamic religion. This fatwa serves as a guide for Muslims in carrying out the Islamic law prescribed by Allah SWT and resolves issues that arise in the daily lives of Muslims.

According to 'Abd al-Karim Zaidan (2000:91), Prophet Muhammad PBUH was the messenger of Allah and received revelations from Him. As a result, the companions of the Prophet at that time made him their reference for all matters pertaining to Islamic law. The use of revelations in every legal issue during that time led to this era being known as the era of Fiqh al-Wahyu (Jurisprudence of Revelation).

According to Khallaf (2000), after the passing of Prophet Muhammad PBUH, the companions and subsequent scholars followed the methods left by the Prophet in issuing fatwas. This guidance was intended to make fatwa an essential mechanism for managing the Islamic way of life in society in the future.

Fatwa can be divided into two aspects: the etimological (linguistic) aspect and the terminological (legal term) aspect. From a linguistic perspective, fatwa has various definitions. According to Ibn Manzur (n.d.:3348) in Lisan al-'Arab, fatwa is defined as an explanation given to someone about a certain issue. Al-Fairuzabadi (1993:1702) states that the Arabic word fatwa is derived from the word al-fata or pronounced as al-fatwa or al-

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futya, which means an explanation by a jurist, while al-Ifta' in terms of language refers to an explanation about something.

From terminological perspective, Hasan (1998:205), Sanu (2000:312), and al-Zuhayli (1996:1156) define fatwa as the answer to a question presented to a mufti (jurist) based on the established principles of issuing fatwas in Islam. Fatwas are given in response to legal issues faced by the community. Al-Mallah (2006: 2) states that a mufti is someone who is knowledgeable in Islamic jurisprudence (faqih) and able to deduce legal rulings (mujtahid), responsible for explaining and deducing Allah's principles in any situation.

In other words, a mufti can be understood as someone capable of resolving issues related to the Islamic religion by referring to the Shariah method and aligning with the objectives of maqasid al-shariah (the objectives of Shariah) (Mahmood et al., 2010:20). Any problems that arise are addressed through accurate methods and sources, which include the Quran, Sunnah, consensus (ijma), and analogy (qiyas) (Zaidan, 1975:166-168). Muftis or the mufti council will examine and discuss issues, and then they will issue their ijihad (legal opinion). A knowledgeable mufti will not disregard local customs and traditions when issuing a fatwa for a particular question or problem, as local customs and traditions hold high sensitivity values that need to be preserved to maintain harmony and unity in a society with diverse ethnic and religious backgrounds.

Fatwa can cover various aspects, including matters related to halal and haram (permissible and forbidden), religious rituals (ibadah), marriage (munakahat), financial transactions (muamalah), and social issues. Muftis are influential figures in the Islamic world and hold significant responsibilities for the religion and society as a whole. However, according to Muhammad (2009), the role of muftis and fatwas has changed since English law became integrated into the justice system in Malaya. This situation led to the isolation of shariah courts and mufti institutions into two different organizational structures (Salleh, Samuri & Kashim, 2016).

The diversity of Malaysia's pluralistic society is a complex and fascinating phenomenon to study. In the fiqh (Islamic jurisprudence) method, there is a principle stating that good customary practices, when not conflicting with Shariah, are considered as legal rulings. This demonstrates the importance of customs and traditions in determining a legal ruling. In the context of present-day Malaysia, the diversity of ethnicities and religions coexisting is unique and intriguing. The society has been able to live in peace and harmony since long ago. Muslims form the majority in Malaysian society, and Islam and its teachings promote unity, harmony, and peace as Islam is a religion that promotes reconciliation. Hence, fatwas, which provide answers to the issues faced by Muslims, serve as one of the mechanisms for unity and harmony in Malaysian society.

Therefore, this paper will discuss the role of fatwas as a mechanism for unity and harmony in Malaysia's diverse society. Specifically, it will delve into the definition of the concept of fatwa, ethnic unity in Malaysia, the connection between fatwa and unity in a diverse society, and the current issues influencing harmony and relevant fatwas.

METHODOLOGY

This study adopts the method of documentation analysis to obtain a clear understanding of the actual definition of fatwa in Islam. The references used include classic and contemporary sources to explain the concept of fatwa in Islam. Additionally, the study examines documents related to the enactment of Islamic laws in Malaysia. This assessment aims to understand the precise position of fatwa in Malaysia, considering the diverse ethnic and religion backgrounds in the country.

The data collected will be analyzed using content analysis. Content analysis is employed to examine and interpret the documents systematically and objectively. According to Yusof (2004: 34) and Krippendorff (2004: 18), content analysis of documents is a research method used to draw systematic and objective conclusions. Marican (2005: 170) and Lebar (2009: 146) define content analysis as a systematic explanation of a written text, which aligns with data collected from specific documents, including works or enactments of the law.

FATWA AND ITS INSTITUTION IN MALAYSIA

In Malaysia, the position of fatwa and its institution holds a significant role in the administration of Islamic affairs and the Shariah justice system. Fatwa is a legal decision in Islam issued by a mufti or a fatwa body that

holds authority in the Islamic religion. Fatwa serves as a guide for Muslims in carrying out the Islamic law prescribed by Allah SWT and resolving issues that arise in the daily lives of Muslims.

Fatwa in Malaysia has its own unique history. The arrival of Islam in the 7th century AD brought a system of governance characterized by Islam (al-Attas, 1969:11). The pattern of caliphate governance in Islamic countries at that time also influenced the Malay world. The rulers or sultans who governed during that era were recognized as Islamic caliphs. Managing the affairs of the state with Islam as the religion of the Federation, continuous efforts were made to safeguard the sanctity of Islam as a priority.

After achieving independence in 1957, the Federal Constitution became the highest law of the country in Malaysia. Islam was recognized as the official religion, and sultans were appointed as the heads of religion in their respective states. The division of powers between state and federal governments was provided for in the Federal Constitution, although it did not completely negate the authority concerning Islamic laws and administration procedures (Mahmood Zuhdi Abdul Majid, 1997:106-107).

Article 3 of the Federal Constitution of Malaysia stipulates that Islam is the religion of the Federation:

Islam is the religion of the Federation; but other religions may be practised in peace and harmony in any part of the Federation.

In every State other than States not having a Ruler the position of the Ruler as the Head of the religion of Islam in his State in the manner and to the extent acknowledged and declared by the Constitution, all rights, privileges, prerogatives and powers enjoyed by him as Head of that religion, are unaffected and unimpaired; but in any acts, observance or ceremonies with respect to which the Conference of Rulers has agreed that they should extend to the Federation as a whole each of the other Rulers shall in his capacity of Head of the religion of Islam authorize the Yang di-pertuan Agong to represent him.

The Constitution of the States of Malacca, Penang, Sabah and Sarawak shall each make provision for conferring on the Yang di-Pertuan Agong shall be Head of the religion of Islam in that State.

The significance of Article 3 lies in the recognition of Islam as the official religion of Malaysia, which carries certain implications for various aspects of the country's legal and social framework:

State Religion: By declaring Islam as the religion of the Federation, the Malaysian government acknowledges its commitment to upholding the principles and values of Islam in governance and public affairs.

Rights of Other Religions: Despite Islam being the official religion, Article 3 also ensures that the practice of other religions is protected and guaranteed in Malaysia. This provision promotes religious freedom and tolerance, allowing citizens of different faiths to practice their beliefs without discrimination.

Islamic Law: Article 3 has implications for the application of Islamic law, known as Shariah, in the country. Matters related to personal status, family law, and Islamic rituals fall under the jurisdiction of the Shariah courts in Malaysia, which operate parallel to the civil courts.

Relationship between Islam and the State: Article 3 establishes a unique relationship between Islam and the Malaysian state, reflecting the special position of Islam in the country's legal and political framework.

It is essential to note that while Islam is the religion of the Federation, Malaysia is also a multicultural and multi-religious society. The Federal Constitution ensures that the rights of all religious communities are protected, promoting harmony and peaceful coexistence among the diverse population. Article 3 serves as a foundational principle that sets the tone for Malaysia's approach to religion and governance (Shamrahayu, 2019).

The administration organizations related to Islam that existed before independence were retained by the state governments as authorities responsible for managing Islamic affairs in each state. The issuance of fatwas and all regulations and laws related to fatwas were enforced according to the respective state's jurisdiction. Thus, provisions regarding fatwas were included in the enactments/ordinances/acts of each state in Malaysia since the inception of these enactments/ordinances/acts.

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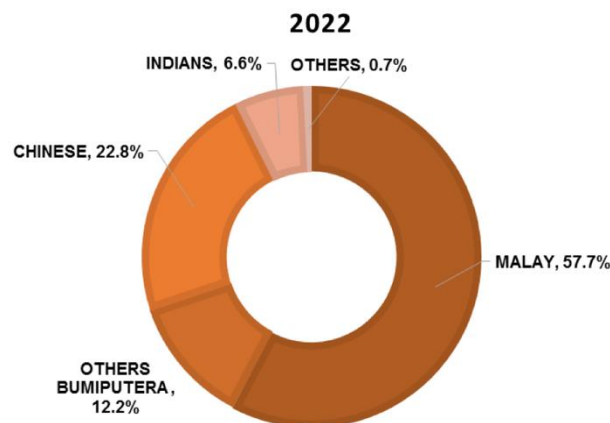


Figure 2: The Composition of Ethnic Groups in Malaysia in 2022

Figure 2 illustrates the population composition of Malaysia based on ethnic groups in the year 2021. This diversity makes Malaysia a country admired by international communities and other nations. Furthermore, the religious diversity does not hinder the harmony among the Malaysian society. Each religion may have different concepts of divinity and beliefs, but there are universal values in each religion that can be utilized to foster unity and harmony among the diverse ethnicities in the country (Ramli, 2017).

In Malaysia, there are several ethnic groups that reflect the diversity of the country's society. These ethnic groups encompass different communities with unique cultures, languages, and traditions. Here are some significant ethnic groups in Malaysia:

Malay Ethnicity: The largest ethnic group in Malaysia, predominantly practicing Islam. The Malay community has Malay language as their main language and rich cultural traditions, including arts, music, and customs.

Chinese Ethnicity: The second largest ethnic group in Malaysia. They have Chinese cultural backgrounds and follow Buddhism, Taoism, or Christianity. Chinese languages like Mandarin, Cantonese, and Hokkien are commonly used in daily communication.

Indian Ethnicity: A group with a rich Indian cultural background. They consist of various sub-ethnicities like Tamil, Punjabi, and others. The majority are Hindus, but there are also Sikhs, Muslims, and Christians among the Indian community in Malaysia.

Bumiputera and Orang Asli: Indigenous ethnic groups of Malaysia with diverse cultures and languages. Orang Asli reside in the rural areas and maintain their traditions, including their understanding of nature, craftsmanship, and traditional music.

Other Ethnic Groups: Besides the major ethnic groups mentioned above, there are also minority ethnic groups like Sikhs, Eurasians, and others. Each of these ethnic groups has its unique cultural, linguistic, and religious identities.

The differences in ethnicity and race also influence religious practices in Malaysia. Malaysia also exhibits religious diversity in its society. Islam is the most widely followed religion in Malaysia, accounting for 63.3% of the population. Other religions practiced in Malaysia include Buddhism (19.8%), Christianity (9.2%), Hinduism (6.5%), other religions (1.7%), and those with no religion or unknown religion make up 0.5%. The Constitution declares Islam as the state religion but also guarantees freedom of religion. There is peaceful coexistence among religions, and major holy days of each religion are declared as national holidays in the country.

THE ROLE OF FATWA AS A MECHANISM FOR UNITY AMONG THE DIVERSE SOCIETY IN MALAYSIA

Fatwa is an explanation of Islamic laws related to the religious practices of Muslims. In Malaysia, fatwa is an essential aspect when issues concerning religion arise. The institution of fatwa at the state and national levels functions to elucidate these laws and disseminate them to the entire Muslim community in Malaysia. Although fatwa is based on religious principles, it is flexible in certain aspects and adapted to the current circumstances (Khairuldin, 2020). Hence, in the diverse society of Malaysia, fatwa serves at times to resolve issues within the Muslim community and also acts as a mechanism for unity among the different ethnicities in Malaysia.

In Malaysia, fatwa is an explanation of Islamic laws issued by the National Council for Islamic Affairs Malaysia (MKI) or the State Fatwa Committees. Fatwa plays a crucial role in the Islamic legal system in Malaysia. In the context of fostering unity among the diverse society in Malaysia, fatwa serves as a mechanism to promote tolerance and harmony by emphasizing principles such as mutual respect, compromise, and cooperation among Muslims and followers of other religions (Kasan, 2008).

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promote tolerance and harmony, emphasizing principles such as mutual respect, compromise, and cooperation between Muslims and followers of other religions (Kasan, 2008).

Fatwa in Malaysia serves to provide guidance and consensus in religious matters for Muslims, helping to harmonize their understanding and practice of the religion. As a result, Muslims can have a uniform guideline in addressing religious issues in their daily lives, avoiding disputes that could bring harm to the religion. Additionally, a comprehensive and coherent understanding of the religion among Muslims can provide a clear picture and understanding to non-Muslim communities regarding Islamic laws, thus fostering tolerance among diverse communities with different religions and beliefs (Zulkifli, 2014; Khairuldin et al. 2018).

The people of Malaysia live in religious diversity, where the majority of the population practices Islam, while other minority religions are also present. Living in such a diverse society, sensitive issues involving different religions, cultures, and beliefs may arise. However, fatwa is seen as playing a vital role in fostering understanding between Muslims and non-Muslims and addressing differences or conflicts by providing clear guidance. Fatwa issued while considering the context of a diverse society can serve as a common ground that is acceptable to all parties, thereby reducing the potential for conflicts and disputes. Several issues or problems in Malaysia involving Muslims and non-Muslims will be presented to strengthen this statement.

GREETINGS ON THE OCCASION OF OTHER RELIGIOUS CELEBRATIONS

As previously mentioned, the population in Malaysia practices various religions. Islam is the most widely followed religion in Malaysia, accounting for 63.3% of the population. The remaining religious affiliations in Malaysia are Buddhism (19.8%), Christianity (9.2%), Hinduism (6.5%), other religions (1.7%), and those without religion or unknown (0.5%). This diversity translates to a variety of religious celebrations, apart from the ethnic and cultural celebrations.

Malaysia is a country that recognizes religious and ethnic diversity, as evident from the national public holidays designated for various religious celebrations. The Malaysian government, through the Ministry of Culture, Arts, and Heritage, has agreed since 2001 to organize national, state, district, and other level celebrations for six major festivals in the country. These celebrations include Hari Raya Idul Fitri, Chinese New Year, Deepavali, Pesta Kaamatan, Hari Gawai, and Christmas. These celebrations are held through the concept of "Rumah Terbuka Nasional" (National Open House), open to all members of the community, as well as domestic and foreign tourists (Fadzir, 2007). The purpose of organizing these open houses is to promote understanding and tolerance among the diverse communities and religious faiths in the country. It also provides an opportunity for foreign tourists to experience the uniqueness and harmony of Malaysia's diverse communities during their respective celebrations.

However, an issue arises regarding whether it is permissible for Muslims to extend greetings during the celebrations of other religions. Essentially, greeting others on their religious celebrations is seen as an acknowledgement of the truth of other religions, which is contrary to Islamic principles. Many classical Islamic scholars hold this view (Ibn Qayyim, 2012). Nevertheless, some contemporary Islamic scholars consider it permissible due to the policy of religious diversity in the present time.

In Malaysia, the 63rd Muzakarah (Discussion) of the National Council for Islamic Affairs Malaysia held on May 18, 2004, discussed the paper on "The Law of Muslims Participating in Non-Muslim Religious Festivals." The outcome of this discussion led to the establishment of the "Guidelines for Muslims Participating in Non-Muslim Religious Festivals," which was submitted to the 68th Muzakarah on April 14, 2005. The Muzakarah approved the use of these guidelines for Muslims with certain amendments.

These guidelines serve as a reference and guidance for Muslims when participating in non-Muslim religious celebrations, ensuring that their actions do not contradict Islamic teachings. The guidelines also serve as a reference for relevant government agencies involved in organizing joint celebrations with non-Muslims, promoting activities that do not involve doubtful practices or actions conflicting with Islamic principles and values.

Several main criteria must be considered when determining whether Muslims can participate in non-Muslim religious celebrations to ensure that their actions are not contrary to Islamic teachings. The criteria include:

The event must not involve practices contrary to Islamic beliefs.

The event must not include actions against Islamic law (Shariah).

The event must not involve actions that may touch upon the sensitivities of Muslims.

Furthermore, the 78th Muzakarah of the National Council for Islamic Affairs Malaysia, held on June 12, 2007, issued a fatwa stating: "Extending congratulations and well-wishes or sending greetings through cards or telecommunication tools such as email or Short Message Service (SMS) to non-Muslims on their religious celebrations is permissible, provided that the greetings do not acknowledge, praise, or glorify non-Muslim religions, and do not use any symbols or religious insignia of their faith."

Considering the reality in Malaysia, non-Muslims in the country can be categorized as generally not hostile to Islam. They not only comply with the government's directives but also show respect to Muslims, contributing to the well-being and harmony of the nation.

In conclusion, extending well-wishes and exchanging gifts during religious celebrations is generally permissible according to contemporary Islamic scholars. However, Muzakarah has implied that Muslims should exercise caution and seek advice from knowledgeable scholars if there are any doubtful aspects before attending such events. The provided guidelines can serve as a reference for the public in determining which non-Muslim religious celebrations can be attended by Muslims. This represents a form of religious and ethnic tolerance practiced in Malaysia, fostering unity among its diverse communities.

THE USAGE OF THE WORD "ALLAH" BY NON-MUSLIMS

The word "Allah" is the Arabic word for God and is primarily used by Muslims to refer to the one and only deity in Islam. However, in certain contexts and regions, you might find non-Muslims using the word "Allah" as well. The polemic regarding the usage of the word "Allah" by non-Muslims has emerged since several years ago (2009) when a magazine for Christian followers, namely Herald-The Catholic Weekly, demanded to publish the magazine in the Malay language and use the word "Allah" as a translation for the word 'God'.

Muzakarah Jawatankuasa Fatwa Majlis Kebangsaan Bagi Hal Ehwal Ugama Islam Malaysia, which took place on 5-7 May 2008, resulted in a decision that the word "Allah" is a sacred term specifically reserved for the religion and followers of Islam. It should not be used or equated with other non-Islamic religions. Following this decision, reactions among the Malaysian society have been varied and inconsistent across different layers of the population.

Polemics surrounding the use of the word "Allah" by Malaysian Christians is not a new issue in the relations between Muslims and Christians in Malaysia, and it has proven to be a challenging matter to resolve. In response to this issue, several states in Malaysia have made decisions regarding its usage, including Johor (2008), Selangor (2008), Kedah (2010), Perak (2010), and Negeri Sembilan (2016). In these cases, the primary objective that should be prioritized is the preservation of religion over other objectives.

The decisions made by State Fatwa Committees, which state that the word "Allah" should only be exclusively used for Islam and Muslims, indicate a commitment to maintaining harmony in the relationships among Malaysia's diverse population, which consists of various ethnicities, religions, and cultures.

However, in the context of Sabah and Sarawak, a significant portion of the Bumiputera community believes that using the word "Allah" is not an issue and does not contradict their religious beliefs or practices. They view the usage of "Allah" as part of their cultural and religious heritage that has been practiced for centuries. They believe that the use of the word "Allah" is part of their cultural and religious heritage that has been practiced for centuries.

The shared use of the term "Allah" among Muslims and non-Muslims in Sabah and Sarawak has fostered unity and religious tolerance among different faiths, leading to a successful coexistence without hostility for centuries.

The usage of "Allah" by Christian communities has demonstrated that religious tolerance exists and does not disrupt public peace. However, from a religious perspective (syarak), it is essential to examine whether such usage is permissible or strictly prohibited (Husin et al., 2022).

The matter remains complex and requires careful consideration of the religious, cultural, and legal aspects involved, with the ultimate goal of fostering harmonious relations and understanding among Malaysia's diverse religious communities.

OFFERING AND RESPONDING TO GREETINGS WITH NON-MUSLIMS

Due to Malaysia's diverse multicultural and multi-religious society, interactions between Muslims and non-Muslims occur in their daily lives. Some non-Muslims are influenced by certain Islamic cultural practices, such as giving salam (greetings). Therefore, the question arises whether Muslims are allowed to greet non-Muslims or respond to their greetings.

As a result, the Fatwa Council of the State of Sabah has agreed to issue a ruling to be published in Sabah, stating that Muslims are permitted to greet non-Muslims but only with the phrase "Assalamualaikum." If non-Muslims greet Muslims, Muslims are also allowed to respond to the greetings, but there are certain conditions to be taken into consideration when responding to such greetings. This fatwa provides guidance on the etiquette of greetings between Muslims and non-Muslims in Sabah, emphasizing respect and tolerance in the coexistence of different religious communities in Malaysia.

The realities of a diverse society comprising various ethnicities and religions in Malaysia result in different approaches used by each state in issuing fatwas. This does not create problems in the issuance of fatwas by each state since matters related to Islamic affairs fall under the jurisdiction of the individual states. Malaysia consists of 14 State Mufti Departments and 14 State Fatwa Committees, which are under the authority of the Sultan. Thus, the well-being of society can be effectively preserved as the issuance of state fatwas plays a crucial role in resolving conflicts, differences of opinion, or controversies between Muslims and non-Muslims. These fatwas provide clear guidance and directions that are widely accepted, helping to reduce tension between non-Muslims and Muslims.

However, conflicts among Muslims can also arise due to differences in state fatwas. Nevertheless, from certain perspectives, such as the declaration of the beginning of fasting and the date of Eid in Malaysia, the muftis agree to reach a unified decision. This is essential to avoid conflicts and discrepancies in fatwas that may cause issues among the public regarding the determination of the start of fasting and Eid dates. It also aims to prevent conflicts between state and national fatwas. Therefore, this matter requires the involvement of muftis from various states and federal territories to reach a consensus in determining the start of fasting and Eid dates, with the ultimate goal of safeguarding the well-being of society. It is evident that the involvement of fatwas issued by each state, which are not binding on other states, can bring together a diverse society in various aspects to achieve harmony.

CONCLUSION

In conclusion, fatwas can play a role as a mechanism for unity in a diverse society if they are issued with due consideration to the principles laid down by the state in the Malaysian Constitution, which aims to safeguard the nation's well-being. Fatwas that reflect these values can help foster mutual understanding, control conflicts, and promote dialogue between different ethnic and religious groups. However, it is crucial to remember that the role of fatwas in unifying a diverse society also depends on how they are received and understood by the people of the country. Therefore, it is essential for the authoritative body responsible for religious affairs that issues fatwas, the government responsible for the religious aspect, such as the Council of Rulers, religious leaders, and the community, to work together in promoting good understanding, conducting interfaith dialogues, and creating an atmosphere of harmony and respect for religious differences. This collaborative effort aims to achieve unity and equality among various religions.

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