

***Siyāsah Shar'iyah* Insights into MUI Fatwa on Beggars' Exploitation in Public Spaces in South Sulawesi Province**

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Abstract

This study aims to describe the views of the MUI Fatwa Authority of South Sulawesi Province Number 1 of 2021 concerning the Exploitation and Activities of Beggars on the Streets to Public Spaces from the *Siyāsah Shar'iyah* Perspective. In answering this problem, the author uses a normative shar'i approach and an empirical juridical approach. The method of data collection is done by way of interviews, observation, documentation, and literature study. The results of the research show that MUI Fatwa Number 1 of 2021 provides guidelines for Muslims regarding procedures for providing assistance to beggars that are more useful and encourage them to get out of the poverty cycle independently and with justice. Furthermore, the exploitation of street begging activities involving violations of laws is not recommended in Islam. From the perspective of *Siyāsah Shar'iyah*, the MUI fatwa regarding the prohibition of providing assistance to beggars on the streets can be seen from legal and political aspects. Basically, we as citizens who are good and obedient to religious rules should carry out the fatwa rules that have been issued by the Indonesian Ulema Council and should socialize more to the whole community so that the fatwas that have been issued are better understood and implemented in accordance with the regulations that have been made.

Keywords: MUI Fatwa; *Siyāsah Shar'iyah*; Exploitation of Beggars' Activities

Abstrak

Penelitian ini bertujuan untuk mendeskripsikan Pandangan Otoritas Fatwa Mui Provinsi Sulawesi Selatan Nomor 1 Tahun 2021 Tentang Eksploitasi Dan Kegiatan Pengemis Di Jalanan Hingga Ruang Publik Perspektif Siyāsah Syariyyah Dalam menjawab permasalahan tersebut, penulis menggunakan pendekatan normatif syar'i dan pendekatan yuridis empiris. Adapun metode pengumpulan data dilakukan dengan cara wawancara, observasi, dokumentasi, dan studi pustaka. Hasil penelitian menunjukkan bahwa Fatwa MUI Nomor 1 Tahun 2021 memberikan pedoman bagi umat Islam tentang tata cara memberikan bantuan kepada pengemis yang lebih bermanfaat dan mendorong mereka untuk keluar dari lingkaran kemiskinan secara mandiri dan berkeadilan. Selanjutnya, Eksploitasi kegiatan mengemis di jalanan melibatkan pelanggaran hukum tidak dianjurkan dalam Islam. Perspektif Siyāsah Syariyyah, fatwa MUI mengenai pelarangan memberikan bantuan kepada pengemis di jalanan dapat dilihat dari aspek hukum dan aspek politik. Pada dasarnya sebagai warga Negara yang baik dan taat pada aturan agama hendaknya menjalankan aturan fatwa yang telah dikeluarkan oleh Majelis Ulama Indonesia dan hendaknya lebih mensosialisasikan kepada seluruh masyarakat agar fatwa yang telah dikeluarkan lebih di mengerti dan dijalankan sesuai peraturan yang telah dibuat.

Kata kunci: Fatwa MUI; Siyasah Syariyyah; Eksploitasi dan Kegiatan Pengemis

1. Introduction

State is a social organization that is obliged to regulate security so that security is guaranteed and there is protection of everyone's interests to achieve equal happiness in community (Wahanisa & Adiyatma, 2021). The Indonesian Ulema Council, abbreviated as MUI, is an independent institution that accommodates ulama, *zu'ama*, and Islamic scholars to guide, develop, and protect Muslims in Indonesia, especially in Makassar City. In accordance with its duties, MUI assists city governments in carrying out matters relating to the benefit of Muslims, such as issuing fatwas regarding the halalness of food, determining the truth of a sect in the Islamic religion, and matters relating to the relationship of a Muslim with their environment (Helmi, 2021).

Poverty is a social disease that should be the responsibility of the State to overcome. However, in reality, there are still many people who live in poverty in Indonesia. So, what about Indonesia's goals, as stated in the 1945 Constitution, to realize general welfare (Fransisco, 2020). This becomes one of the factors for the MUI in issuing a fatwa regarding the prohibition of giving money to children on the side of the street to educate the public, as well as changing attitudes and mentalities that are not good to become good (Fajri & Mukarromah, 2021). Constitutionally, the obligation to eradicate poverty lies with the state as explained by the law, which mandates the state's obligation to care for the poor and neglected children (Safira & Hadi Pura, 2022).

The Local Government Regulation of Makassar City Number 2 of 2008 also strengthens the prohibition on giving money to street beggars because it disturbs traffic order (Prima, 2021). Historical studies regarding the beggar phenomenon in various cities agree that it emerged along with the developmentalism, modernism, and industrialization movements (Syahra, 2018). These three movements have the impact of increasing rural-to-urban migration. With the increasing migration flow from villages to cities, competition for city life is getting tougher (Elizabeth, 2018). Beggars are a description of people who are helpless and unable to compete in the formal sector because they have low education, do not have capital, and do not have adequate skills (Muhtarom, 2019) (Napitupulu, 2022). Therefore, they usually go to the informal sector, do odd jobs, or work in any sector that does not require knowledge, capital, and skills, including begging (Sham & Selvaratnam, 2018).

The act of begging is done because in their minds, with their limitations, there is no other way other than to fulfill their living needs (Dewi et al., 2020). They do begging activities in various ways and for various reasons to gain people's sympathy and pity (Rizal & Bahri, 2022). This job as a beggar, which does not need expertise and skills, has become a trend among those who look pragmatically at making money (Firdausi, 2018). This condition shows that the behavior of individuals and society has shifted from existing norms or rules. People

will take any action, even if it violates the law, for the reason of meeting their daily needs, especially stomach problems. In Islamic teachings, begging is not recommended. Even Rasulullah SAW said that: "The upper hand (the giver) is better than the lower hand (beggar). Regarding the unlawful fatwa issued by the MUI of South Sulawesi Province, Buya Anwar Abbas believed that this begging behavior is organized. This action is clearly a disgraceful act. They make money by cheating or tricking people. The act of deceiving and defrauding people is clearly an act that is disgraceful and prohibited in religion (Prima, 2021). The law clearly states that it is unlawful. However, if there is a truly poor person, where they cannot fulfill their basic needs even if they do not beg, they may be given assistance (Fahlepy, 2018).

Previously, the MUI of South Sulawesi province issued a fatwa on the prohibition of giving money to beggars on the streets and begging when physically able. The Secretary General of the Central MUI, Amirsyah Tambunan, stated that the haram fatwa prevents human exploitation. According to the MUI, there is an element of exploitation when giving money to beggars who are healthy and physically capable, so giving aid to beggars is prohibited. Meanwhile, the Social Office of South Sulawesi said that the unlawful fatwa is in accordance with the Local Government Regulation of Makassar City Number 2 of 2008 concerning the Guidance of Street Children, Beggars, and the Homeless (Helmi, 2021).

Helping people in situations like those mentioned above is, of course, mandatory. The Prophet Muhammad SAW even stated, "He who sleeps full while his neighbor is hungry does not believe in Me while he knows about it." This hadith explains that someone should not let one's neighbor starve. He must help overcome hunger. Likewise in matters of clothing, when they are naked, he must help them. Besides, it also helps to meet other basic needs. Even the hadith suggests that property has rights other than zakat. Thus, rich people are free from their annual obligations. However, there are other obligations for them related to certain conditions. People who are included in the poor category in the Al-Qur'an are in the category of people who are entitled to receive zakat or people who, according to Sharia (Fedro et al., 2019), have the right to be helped. We are encouraged to help because they are also human beings who have the right to live in prosperity, at least being able to fulfill their basic needs so they can live a healthy, decent, and enthusiastic life. The MUI of South Sulawesi Province issues religious fatwas and guidelines that are appropriate to the context and needs of the local community (Bakry et al., 2020). Fatwas are moderated by balancing all aspects; every problem that arises is responded to quickly and accurately. However, what needs to be considered is the method used in exploring the law according to the fatwa procedure and all its consequences.

2. Research Methods

This research employed field research (qualitative). The method used was empirical juridical approach by digging up information and conducting research in the field to find out

more about the problems discussed. In this case, the researcher conducted interviews in the area, especially in the Makassar City area, South Sulawesi Province. Then, the researcher used a normative Sharia approach based on Sharia or Islamic rules, such as Al-Quran, Hadith, and the opinions of the ulama.

3. Discussion

3.1. Background to the Emergence of the MUI Fatwa Views Number 1 of 2021

MUI Fatwa Number 1 of 2021 provides guidelines for Muslims regarding procedures for aiding beggars that are more useful and encourage them to escape the cycle of poverty independently and fairly. The increasing population every year will cause an increase in the number of people seeking work, so the number of labours will also increase. If the labours cannot be absorbed into employment, then they will be classified as unemployed (Ishak, 2018). This causes more and more people to resort to begging on the streets to fulfill their daily needs. In addition, community legal awareness as an embodiment of community legal culture must continue to be instilled so that community compliance with the law can continue to be improved (Mustafa et al., 2021).

One of the factors that motivates a group of people to beg is being lazy about trying. The behavior and habit of begging in order to get money without effort tends to make some people lazy and just want to feel comfortable without trying first (Ihsan & Anis, 2021). The Government in each country must take serious steps to overcome this, such as (Daniati & Hisbullah, 2021) issuing several policies as explained in an interview with Dr. Shaifullah Rusmin, Lc., M. Th.I, as Deputy Chair of the MUI Fatwa Commission of South Sulawesi, street beggars are used to begging because they can get money easily.

3.2. Strength of MUI Fatwa Number 1 of 2021 Regarding the Prohibition of Providing Assistance to Beggars on the Streets

3.2.1. The MUI Fatwa Authority towards Beggars based on the MUI Fatwa Number 1 of 2021

Knowing the applicable laws and regulations. They often do actions that are contrary to the law. Their ignorance results in them often breaking the law (Febriansyah & Purwinarto, 2020). Therefore, in their activities, beggars often encounter the law and authorities. Violations of applicable laws are also caused by their attitude of not being afraid of legal sanctions that are ready to ensnare them. Deputy Chair of the MUI Fatwa Commission of South Sulawesi:

"Emphasized that the target of the fatwa issued by the MUI is beggars in public places so that people who want to provide assistance to people in need, including beggars who are not involved in exploitation activities, are still allowed and considered as a good practice in Islam. Therefore, the MUI fatwa does not expressly prohibit assisting beggars on the streets, depending on the context and conditions (Rusmin, 2023)."

Nasrullah Sapa said that Muslims understand how to choose organized and trusted zakat distribution institutions, such as *zakat amil* institutions, social institutions, or humanitarian organizations.

“Even though the MUI fatwa does not have binding legal force, Muslims in Indonesia generally respect and follow the fatwas issued by the MUI to guide their religious life. However, the final decision remains with each individual in acting to assist beggars on the streets or not (Sapa, 2023).”

3.2.2. Government Policy after the Emergence of MUI Fatwa Number 1 of 2021

The MUI Fatwa Commission is the commission tasked with forming MUI fatwas. The task of the Fatwa Commission is to issue and negotiate Fatwas regarding Islamic legal issues faced by society. Fatwa commission meetings are held according to need or if the MUI has been asked for its opinion by the public or the Government regarding certain issues in Islamic law. To issue a fatwa, sometimes a trial is needed to help them get out of the situation of poverty and deprivation they are experiencing. Even giving materials to beggars can result in several fatwas. Policies are usually expressed in various forms of state regulations and their functions in government management to form policies. (Usman, 2015) In the view of Islamic law, providing materials to beggars does not encourage the practice of begging to become more widespread and worsen the security and health situation on the streets and public spaces.

Therefore, sanctions for providing materials to beggars can be considered as part of a more holistic strategy to prevent and handle exploitation practices and begging activities, which pay attention to social, economic, security, and Islamic law. According to Ridwan HR, as quoted by Kusnadi Umar, the authority of government organs obtained directly from editing certain articles in a statutory regulation is called attribution authority (Umar, 2020). As a sovereign government, the village government must be oriented towards realizing prosperity, order, security and survival of many people in achieving common ideals and goals (Amir & Sastrawati, 2019).

In the *Siyasah Syariyyah* perspective, sanctions for beggars who are given material must be based on the principles of benefit and *maqasid al-shariah*, which aim to protect the public interest and maintain community welfare. The application of sanctions must refer to the basis of Islamic sharia law and be carried out proportionally and fairly and not harm other parties.

The MUI fatwa Number 1 of 2021 states that providing materials to beggars does not encourage them to get out of poverty and can actually worsen their situation. However, sources that do not come from revelation must be selected and measured within the framework of revelation (Hanum, 2022). The political policies made cannot be said to be *Siyasah Syariyyah* and should not be followed (Erick & Masyitah, 2020). As emphasized in the words of the Prophet *sallallaahu 'alaihi wa sallam* that "there is no obedience to anyone if it is disobedience to Allah."

Guidance is all efforts or activities carried out by the Government and/or the community to overcome the problems of street children, homeless, buskers and their families so that they can live and earn a living while still prioritizing basic human rights (Agustin et al., 2018). Guidance for street children, homeless, beggars, and buskers is carried out to provide protection and create order and tranquility in society, upholding human rights and the honor and dignity of being citizens who must be respected, maintaining family characteristics through deliberative efforts in realizing orderly and dignified living together, and creating fair and proportional treatment in realizing social life.

The guidance as referred to in article 1 of the Local Government Regulation of Makassar City regarding the guidance of street children, homeless, beggars and buskers in Makassar City is carried out through prevention, follow-up guidance, and social rehabilitation. Nasrullah Sapa said that:

“MUI Fatwa Number 1 of 2021 emerged because of recommendations from the Community and MUI, which also referred to Local Government Regulation Number 2 of 2008 concerning the guidance of street children, the homeless, beggars, and buskers. The MUI of South Sulawesi found that there were groups of people who used beggars on the streets, including babies, children, women and disabled people, to earn money. This creates problems for society. The Government made it a rule that people should not give money to beggars on the streets, but no one has been punished for breaking this rule. Therefore, it is necessary to issue a fatwa to clarify this matter (Sapa, 2023).”

3.2.3. Community Perspective towards MUI Fatwa Number 1 of 2021

The Social Office of Makassar City responded positively to the issuance of the Indonesian Ulema Council (MUI) Fatwa of South Sulawesi, which forbids giving money to beggars on the streets and in open spaces. Moreover, the Makassar City Government has regulations similar to the MUI Fatwa of South Sulawesi contained in the Local Government Regulation of Makassar City Number 2 of 2008, and the Mayor Regulation of Makassar City Number 37 of 2017. When we socialize Local Regulation Number 2 of 2008 and Mayor Regulation Number 37 of 2017, there are pros and cons. It means that there are people who do not accept that they are prohibited from giving on the street. The presence of the MUI Fatwa of South Sulawesi also strengthens and supports the Local Regulations and Mayor Regulations issued by the Makassar City Government. Muhyiddin also hopes that with this MUI Fatwa of South Sulawesi, the Local Government Regulation of Makassar City Number 2 of 2008 and the Mayor Regulation of Makassar City Number 37 of 2017 can be enforced.

The position of Islamic criminal law supports the existence of Islam amidst the plurality of society in international relations. Islamic criminal law can be applied in public life, especially in countries with a majority Muslim population, or at least the legal material is part of Indonesia's national criminal law (Syatar, 2018). The City Government, especially the social office, is very grateful and appreciative. This is the main spirit and strengthening for the

implementation of Regional Regulation Number 2 of 2008 and Mayor Regulation Number 37 of 2017. Muhyiddin then asked the public not to misunderstand the fatwa issued by the MUI of South Sulawesi, including the Local Government Regulation of Makassar City Number 2 of 2008 and the Mayor Regulation of Makassar City Number 37 of 2017. According to him, people are not prohibited from giving alms, but they need to understand that giving alms will be better if done in the right place. Muhyiddin also admitted that:

“the Social Office of Makassar City had taken various preventative and persuasive steps to suppress the population of beggars, street children and squatters throughout Makassar City (Mustaqim, 2023).”

Obeying the commandments (*al-amr*) and *al-nahĩ* is the goal of the Shari'a revealed to the Mukallaf people to regulate their lives, both in relation to individuals and society in accordance with Allah's will to achieve happiness in this world and the hereafter (Hasan, 2019). However, the fatwa also emphasizes the importance of providing assistance through appropriate and organized channels, for example, through social institutions or *amil zakat* and carrying out other duties of the Regional Head in accordance with their main duties and functions (Sa'diyah, 2020). The Department of Communication and Information is tasked with disseminating the legal rules to local governments, which are the basis for carrying out all regional government affairs (Asriana & Jafar, 2021). The purpose of this fatwa is to make someone responsible and obey the rules for fear of sanctions from the rules. Compliance with regulations is caused by the fear that good relations with other parties will be damaged and compliance is based on the feeling that these rules are in accordance with the intrinsic values one adheres to (Arifuddin & Risal, 2021).

3.3. *Siyasah Syariyyah* Analysis towards MUI Fatwa Number 1 of 2021

The MUI fatwa also has an important position in *Siyasah Syariyyah* because it can be used as a reference by leaders and the Government in determining public policy. Even though the MUI fatwa does not have direct binding legal force, it can influence public policy and provide guidance for Muslims in behaving in accordance with religious values. Without credible, competent, and independent law enforcement officials, the law cannot operate or be upheld. The weak mentality of law enforcement officers results in law enforcement failing to run as it should (Muis et al., 2021).

From the *Siyasah Syariyyah* perspective, the MUI fatwa regarding the prohibition of providing assistance to beggars on the streets can be seen from two aspects, namely the legal and political aspects. By issuing this fatwa, the MUI has provided guidance and direction to Muslims in providing assistance to people in need through appropriate and organized channels. This is expected to reduce the practice of begging on the streets, which is disturbing the community. However, on the other hand, this fatwa also needs to be seen from the perspective of social justice, where disciplinary efforts carried out by correctional guards

sometimes use physical action if citizens have done things that have exceeded the limits of reasonableness (Syam & Kurniati, 2021).

In its conclusion, the MUI fatwa regarding the prohibition of assisting beggars on the streets has an important role in maintaining social order and security (Nurhalizah & Fageh, 2022). However, the MUI also needs to pay attention to aspects of social justice in issuing this fatwa and provide solutions with a positive and Islamic legal perspective regarding underage children (Iswahyudi, 2017). This is a progressive step taken in the judicial environment to prevent child exploitation, which refers to discriminatory attitudes or arbitrary treatment of children by families or society (Asriadi & Asti, 2023). Thus, MUI and government fatwas can provide wider benefits for society as a whole.

From the Islamic law point of view, giving material things to beggars will not help them escape the poverty and deprivation they experience. Even providing materials to beggars can encourage the practice of begging to become more widespread and worsen the security and health situation on the streets and public spaces. Good governance uses economic, political, and administrative authority to manage all state affairs at various levels and sectors. To overcome the debate and prevent the negative impact of the fatwa, the MUI can carry out several preventive efforts, including socialization and education, collaboration with related parties, economic empowerment, monitoring, and evaluation. By carrying out the preventive measures above, MUI can minimize the negative impact of MUI Fatwa Number 1 of 2021 and provide greater societal benefits.

4. Conclusion

The MUI Fatwa Number 1 of 2021 appears to provide guidelines for Muslims on procedures for assisting beggars that are more useful and encourage them to get out of the cycle of poverty independently and fairly. The authority of the MUI fatwa is to provide religious guidance to Muslims. The MUI fatwa itself is not a legally binding regulation or law, but it has moral force and great influence on society, especially Muslims. In the analysis of the Siyāsah Syariyyah perspective, the MUI fatwa regarding the prohibition of assisting beggars on the streets can be seen from two aspects, namely the legal and political aspects. From the legal aspect, the MUI Fatwa Number 2021 has persuasive legal force. Meanwhile, from the political aspect, the MUI fatwa is important in maintaining social order and security. The Indonesian Ulema Council should provide more information to the entire community so that the fatwas issued are better understood and implemented according to the regulations made.

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