

Implementation of Authoritative Statement of the Shafiite Madhhab in the Economic Legal Ruling in the State Of Kedah and State Of Penang

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The authoritative statement of the Shafi'ite madhhab is a well-established term in the policy of fatwa in Malaysia involving various issues such as worship, marriage, crime and muamalat or economic. The objective of this study is to examine the actual position of the implementation of the authoritative statement of the Shafi'ite madhhab policy in the determination of economic fatwas in the two states which have laid the groundwork covering the views used in the determination of the fatwas whether the authoritative statement of the Shafi'ite madhhab, Aqwal Syafi'iyah or the other Ahl Sunnah Wal Jamaah school of thoughts such as Hanafi, Maliki and Hanbali. Qualitative study methods are used to make economic fatwas in Kedah and Penang as samples of the study. From the economic fatwas that have been filtered out of all the fatwas published by the Mufti Department of Kedah and Penang, their implementation position was analyzed using Nvivo 11 software. The findings show that economic fatwas set based on the authoritative statement of the Shafi'ite madhhab are very small. However, the findings also show the views of other schools, such as Hanafi, Maliki and Hanbali, have been taken into account in the determination of economic fatwa in both states. Based on these findings, it can provide input to the State Mufti of Kedah and Penang to formulate strategies in strengthening the economic fatwas that will be set in the existing policy framework for current needs.

Key words: *Authoritative Statement of the Syafi'ite Madhhab, Muamalat Fatwa, Economic Legal Ruling State of Kedah, Economic Legal Ruling State of Penang.*

Introduction

The Syafi'ite school is the flow of fiqh knowledge founded by Muhammad ibn Idris al-Syafi'i (150-204H). Among the characteristics of this school is the selection of intermediate system between Hijaz and Iranian flow; between the schools of Abu Hanifah and the Malik Ibn Anas school. In other words, the existence of the Syafi'ite school is an innovation of the school or the fiqh stream that existed after the passing of Abu Hanifah and Malik Ibn Anas. Even the existence of old view (*qawl qadim*) and new view (*qawl jadid*) in al-Shafi'i views also reflects the re-evaluation of his views in Iraq based on the difference of place, age, *urf* and the discovery of an unknown hadith (Abdul Karim bin Ali, 2007; Amin, Chen & Huang 2018). Al-Sayuti notes that there has been a great change from the old view to the new view; only 14 problems remain unchanged (al-Sayuti, 1998).

"*Qaul Muktamad*" is the Arabic term that contains the syllables "*qaul*" and "*muktamad*". "*Qaul*" means words or views. While "*muktamad*" is derived from the word *i'tamada* that is synonymous with the word *itaka'a* that means a backing or *ittakala* that means believing (al-Razi, 1990).

According to Nu'man Jafim (2007), *Qaul Muktamad* is a term used by Ibn Hajar al-Haytami to mean the selected view (*al-Adzhar*) of two or more views of Syafi'ite school. Wahbah al-Zuhayli (1996) takes the definition of *al-Adzhar* from al-Nawawi in the classification of views in the Syafi'ite school as the highest prestige.

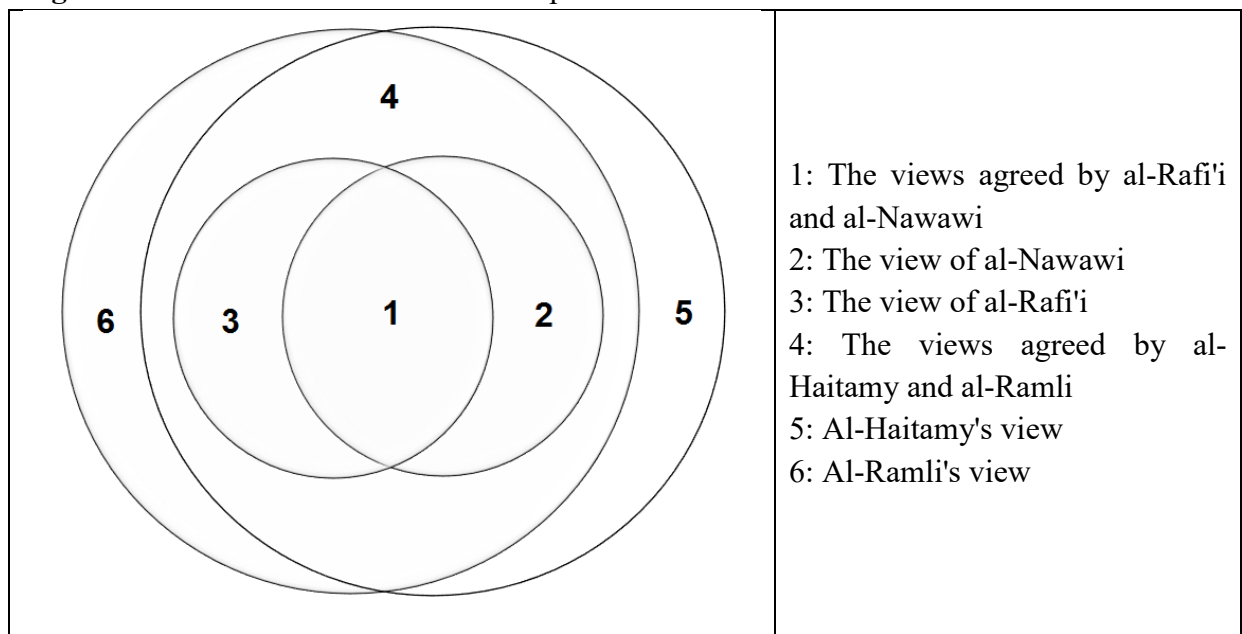
The Concept of Authoritative Statement of the Syafi'ite Madhhab

As is known, the Syafi'ite school does not show the view of al-Shafi'i as the founder of the school, but it is also the view of al-Shafi'i and the views of the fuqaha who hold al-Syafi'i's method of issuing the law. Therefore, the probability of occurring more than one view in a *furu'* (branches) problem is a definite one. To better understand the concept of the authoritative statement, the following tables and diagrams can be used as a basic overview.

Table 1: Authoritative Statement of Syafi'ite Madhhab Concept

| Problems of fiqh touched by: | Authoritative reference on the side of Syafi'ite school: |
|--|--|
| al-Rafi'i and al-Nawawi; they agreed in determining the law | The writings and manuscripts of fiqh al-Rafi'i or al-Nawawi; both are at the same level. |
| al-Rafi'i and al-Nawawi; they disagreed in determining the law | The writings and manuscripts of fiqh al-Nawawi |
| al-Nawawi only | The writings and manuscripts of fiqh al-Nawawi |
| al-Rafi'i only | The writings and manuscripts of fiqh al-Rafi'i |
| al-Haitamy and al-Ramli; they agreed in determining the law | The writings and manuscripts of fiqh al-Haitamy or al-Ramli; both are at the same level. |
| al-Haitamy and al-Ramli; they disagreed in determining the law | The writings and manuscripts of fiqh al-Haitamy or al-Ramli; both are at the same level, but there are two sects tendency in choosing one. |

Figure 1. Authoritative Statement Concept



The Authoritative Statements of Syafi'ite Madhhab's Position in Fatwa in Kedah and Penang

Kedah and Penang are two states located in the northern part of Malaysia, other than Perak and Perlis. These two states, from the point of establishing and issuing fatwas, are under the jurisdiction of the State Islamic Religious Council (MAIN). From the administrative and management perspective, the responsibility is placed on the jurisdiction of the State Mufti Department. Meanwhile, each state has its own Fatwa Committee comprising scholars and experts in Islamic jurisprudence to issue fatwa decisions on issues arising in society. For the



Kedah state, the three parties are Kedah Islamic Religious Council (MAIK), Kedah Mufti Department and Kedah State Fatwa Committee. In Penang, the parties involved are Penang State Islamic Religious Council (MAIPP), Penang State Mufti Department and Penang State Fatwa Committee (Lokmanulhakim Hussain, 2013; Mechler & Mc Carroll 2017; Hussain et al., 2018).

According to Mahmood Zuhdi Haji Abd. Majid (2007), the position of Syafi'ite school of thought in Malaysia is quite secure. First, because its history is so brilliant. Secondly, because this sect has been accepted by the grassroots community and it is a part of their culture. Third, its nature is simple and corresponds to the simplicity of the life patterns of the region's society. Fourth, there is legal support. Fifth, there are supporters who continue to dominate the bureaucracy. In the context of the authoritative statement of Syafi'ite Madhhab's position, the legal support referred to in the above statement is as follows:

i. State of Kedah

Through the State Gazette of Kedah, vol. 51, no. 7 dated 27 March 2008 in the Mufti and Fatwa Enactment (Kedah Darul Aman) 2008 has provided some matters relating to the authoritative statement of Syafi'ite Madhhab. In Part III (Fatwa Committee) Section 26 there are several things that mention about authoritative statement of Syafi'ite Madhhab. These are:

- (1) provides that in considering any fatwa under section 21 or recommends any opinion under section 25 of the Fatwa Committee shall, generally follows the authoritative statement of Syafi'ite Madhhab based on the Quran, Hadith, Ijma 'Ulamak and Qiyas.
- (2) If the Fatwa Committee considers that by following the authoritative statement of Syafi'ite Madhhab will result a situation contrary to the public interest, the Fatwa Committee may follow the authoritative statement of Hanafi, Maliki or Hambali Madhhab after receiving the consent of His Royal Highness the Sultan.
- (3) If the Fatwa Committee is of the opinion that none of the authoritative statement of the four schools may be followed without giving rise to an event contrary to the public interest, the fatwa may be decided in its own right without being bound by the authoritative statements of any of the four schools.

ii. State of Penang

In the Second Enactment, the Administration of the Religion of Islam (Penang State) Enactment 2004, in Part III (Appointment of the Mufti, Authority in Religious Affairs Fatwa

and Fatwa Committee Related to the National Interests), Section 54 (Authoritative statements to be followed) 3 matters involving the position of authoritative statement of Syafi'ite Madhhab in the course of fatwa. Here they are:

- (1) In issuing any fatwa under section 48 or recommending any opinion under section 53 of the Fatwa Committee shall ordinarily follow the authoritative statement (received opinions) of Syafi'ite Madhhab.
- (2) If the Fatwa Committee considers that by following the authoritative statement of Syafi'ite Madhhab, a situation contrary to the public interest will result, the Fatwa Committee may follow the authoritative statement of Hanafi, Maliki or Hambali Madhhabs.
- (3) If the Fatwa Committee is of the opinion that none of the authoritative statement of the four schools may be followed without giving rise to an event contrary to the public interest, the fatwa may be decided in its own right (ijtihad) without being bound by the authoritative statements of any of the four schools.

Research Methodology

For the purpose of this study, qualitative methods are used to make economic fatwa in Kedah and Penang as a sample of the study.

i. Data collection

All fatwa texts are taken from printed materials in the book Collection of Fatwas of Kedah and Penang. The Collection of Fatwas covers all Islamic religious issues involving faith, worship, marriage, muamalat or economic, social and others. The process of selecting the fatwas related to economics is done by filtering all the fatwa in the Collection of Fatwas of Kedah and Penang.

Through the process of the screening, a set of fatwa involving economic issues has been documented for analysis. Collection of economic fatwas for Kedah includes 59 fatwas, while Penang covers 162 fatwas.

Each of the filtered economic fatwa is determined on the basis of the views used in fatwa decisions; whether the fatwa is based on the authoritative statement of Syafi'ite Madhhab or using views in the Syafi'ite Madhhab (cited as the views of Syafi'iyah/*Aqwal Syafi'iyah*) or using the views of the Ahl Sunnah Wal Jama'ah (ASWJ) such as Hanafi, Maliki and Hanbali (named with the View of Madhhab aside from the Syafi'i School).

The determination of an economic fatwa is grouped to each of the fatwa views guided by the prescribed indicator:

a) Fatwa group based on the authoritative statement of Syafi'ite Madhhab:

The texts of the economic fatwa of each state have clearly stated the essence of the law of authoritative statement of Syafi'ite Madhhab.

b) Fatwa group based on the views of Syafi'iyah (*Aqwal Syafi'iyah*):

Fatwa texts of each state only provide answers to the issue. Taking into account the basis of Fatwa's determination approach based on the Syafi'ite school, the fatwas were collected in this group.

c) Fatwa group based on the view of Madhhab aside from the Syafi'i School:

The economic fatwa texts state clearly the basis of law enforcement other than Syafi'ite's school such as the Hanafi, Maliki and Hanbali's schools.

ii. Data analysis

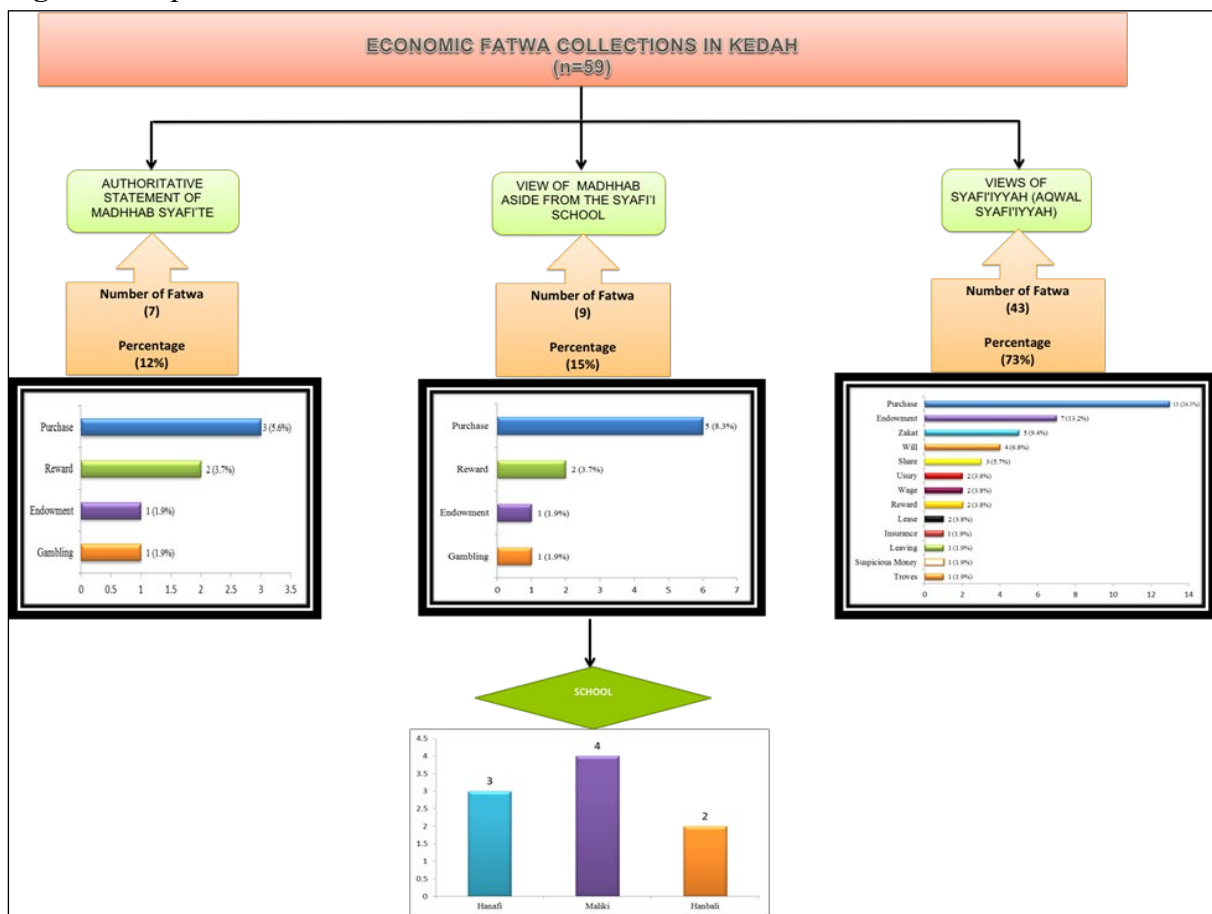
Based on all data that has been collected and filtered, a set of economic fatwa in both states were analysed of its implied position using Nvivo 11 software. This software is in accordance with the qualitative and objective data form that has been set.

Implementation of Authoritative Statement of the Syafi'ite Madhhab in Economic Fatwa in Kedah and Penang

1. Economic Fatwa of Kedah

Based on the book "Collection of Fatwas of Kedah Darulaman" from series one to five, there are 59 fatwas related to muamalat and economic issues. The muamalat topics involved are sales, rewards, endowment, gambling, zakat, wills, inheritance, shares, usury, wages, leases, taxes, insurance, suspicious money and troves. An analysis of 59 muamalat and economic fatwas focuses on the views used in forming up each fatwa. The views are Authoritative Statement of the Syafi'ite Madhhab, Views of Madhhab aside from the Syafi'i School and the views of Syafi'iyah (*Aqwal Syafi'iyah*). The results of the analysis can be presented in the following diagram:

Figure 2. Implementation of Economic Fatwa Determination in the State of Kedah



a) Views Used in Fatwa Determination

The number of fatwas set by Authoritative Statement of the Syafi'ite Maddhab is seven fatwas, which is 12% of the muamalat and economic fatwa in Kedah. While 43 fatwas (73%) were set up using the views of Syafi'iyah (*Aqwal Syafi'iyah*). In 59 of the muamalat and economic fatwa, there are nine fatwas set by view of madhhab aside from the Syafi'i School, which is 15%.

From the analysis done in this section, it is clear that the prescribed fatwas on muamalat issues are based on the Syafi'ite school's view whether they involve the most authoritative views of Syafi'ite school (Authoritative Statement of the Syafi'ite Maddhab) or other views of Syafi'iyah (*Aqwal Syafi'iyah*). This clarifies that the Fatwa Committee of Kedah has resolved muamalat problems that arise among society by using Syafi'ites view. This is coinciding with the method of fatwa determination that has been provided in the Mufti and Fatwa Enactment of Kedah, regarding the views of the Syafi'ite school.

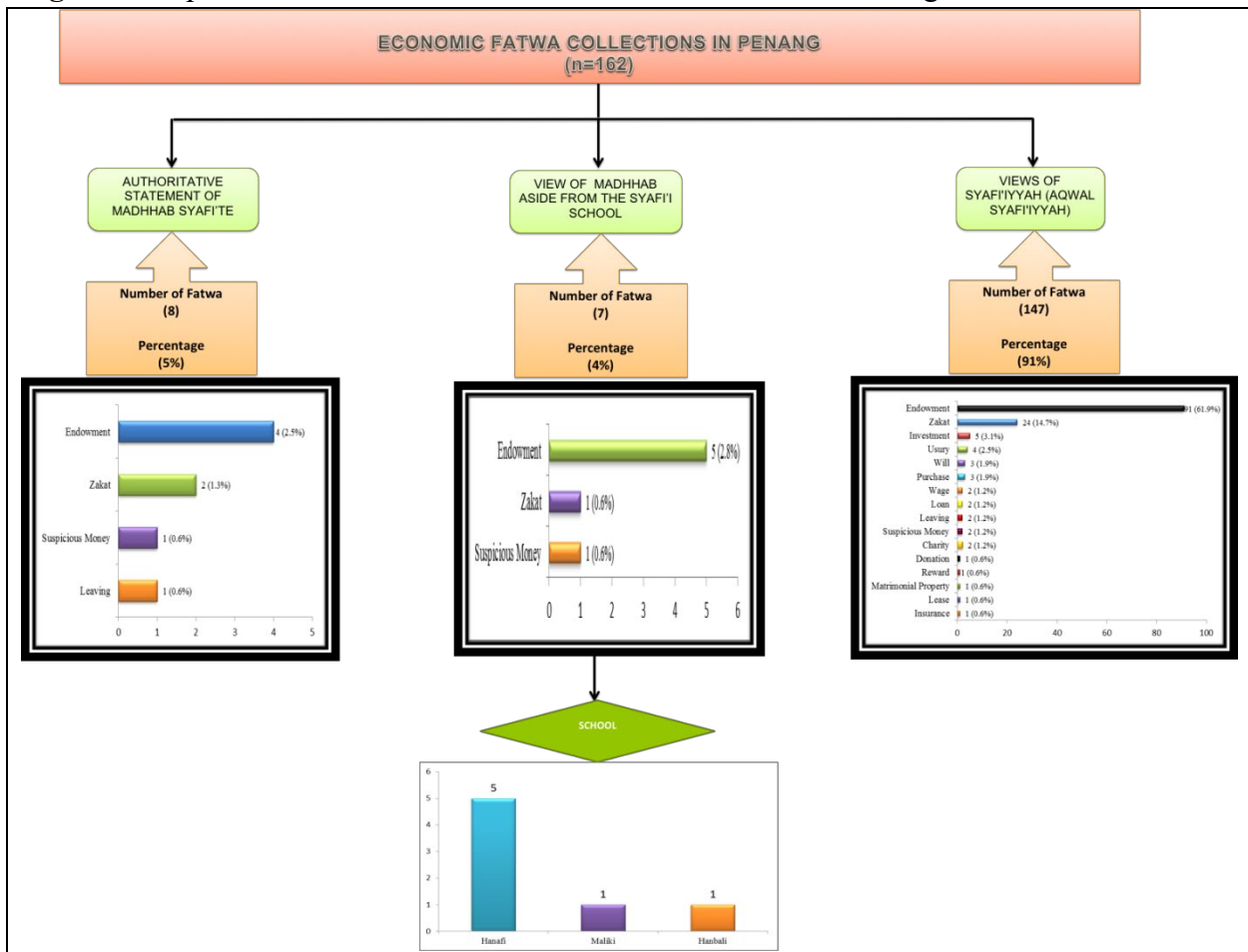
However, the views of other schools, such as the Hanafi of three fatwas, Maliki four fatwas and Hanbali two fatwas, are still used in some fatwa fixing involving muamalat issues in small proportions; only 15% of the total fatwa in the muamalat issues. This has shown that the muamalat fatwa of the state of Kedah, in some issues, remains in the view of the other schools including the Hanafi, the Maliki and the Hanbali. This also shows that the muamalat fatwas in the state of Kedah still take on the views of other schools. This is necessary to provide answers that can be adapted to the needs of the community, especially on issues of muamalat and the economy which have become more complicated. This is evidenced by fatwa coverage involving sale, reward, endowment and gambling. For example, the fatwa on the issue of buying and selling endowment goods by substitution of endowment. The views of the Hanafi School are used to enable the benefit of the land of endowment to be utilized by the Muslims (Collection of Fatwas of Kedah Darulaman 3, t.t).

This is in line with the statement by the Deputy Mufti of Kedah (Tuan Syeikh Marwazi bin Dziyauddin) who has explained that the entire issue involving the part of fiqh, the prescribed fatwa, is based on the view of Syafi'ite school, except the muamalat chapter. Use of views from other ASWJ schools, such as the Hanafi, Maliki and Hanbali, exists. This is due to the current needs of the general public in resolving the issues that hover over their lives. However, the muamalat fatwa for the Kedah state is still far behind in terms of solutions of new Islamic muamalat transactions that are gaining ground in society.

2. Fatwa Muamalat State of Penang

Based on the books "Collection of Fatwas of Penang", there are 162 fatwas related to the muamalat and economic issues. The muamalat topics involved are sales, rewards, endowment, zakat, wills, inheritance, usury, rental, taxes, insurance, suspicious money, loans, charities, matrimonial properties and investment. An analysis of the 162 fatwas of muamalat and the economy is focused on the views used in setting the fatwa. The views are Authoritative Statement of the Syafi'ite Maddhab, View of Madhhab aside from the Syafi'i School and the views of Syafi'iyyah (*Aqwal Syafi'iyyah*). Here are the results of the analysis:

Figure 3. Implementation of Economic Fatwa Determination in Penang



i) Views Used in Fatwa Determination

Of the 162 fatwas related muamalat and economics, there are eight fatwas set by the most conclusive view of Syafie School (Authoritative Statement of the Syafi'ite Madhhab) which is 5%. While there are 147 fatwas of muamalat and the economy which have been decided based on the views of Syafi'iyah (*Aqwal Syafi'iyah*) which is 91%. There were seven out of 147 muamalat fatwas which were decided by the Penang Fatwa Committee based on the view of Madhhab aside from the Syafi'i School, which are only 4%.

Based on the analysis done in this section, it is clear that the determination of fatwa on muamalat issues is based on Syafie's school's view whether it involves the most authoritative views of Syafi'i school (Authoritative Statement of the Syafi'ite Madhhab) or other Syafi'iyah views (*Aqwal Shafi'i'iyah*) which is about 96%. The Penang Fatwa Committee has resolved muamalat problems that arise among society by using Syafi'ite's view. This is in line with the fatwa determination method that has been provided in the Islamic Religious Administration Enactment (State of Penang) 2004 regarding the views of the Syafi'ite school.



However, the views of other schools such as the Hanafi, Maliki and Hanbali are still used in some of the fatwas determination involving muamalat issues in very small proportions; only 4% of the total fatwa in muamalat issues.

It has been shown that the muamalat fatwas of Penang in some issues are determined from the view of other schools; Hanafi (five fatwas), the Maliki (one fatwa), and Hanbali (one fatwa). This also shows that the muamalat fatwa of Penang still uses the views of other schools. This is necessary to provide answers that can be adapted to the needs of the community, especially on issues of muamalat and the economy. This is evidenced by some fatwa coverage involving the endowment (five fatwas), zakat and suspicious money each with a fatwa. Concerning the fatwa of substitution, endowment with the determination of the fatwa is based on the view of the Hanafi school, has been used to avoid a very strict endowment contract in the Syafi'ite school. For example, the fatwa related to the Proposed Implementation of the Substitution Concept for Joint Venture Development Application by Pansprint Consolidated Sdn. Bhd. on the Endowed Cemetery Land at Lot 45, Section 2, Bukit Mertajam, Seberang Perai Tengah (Collection of Fatwas of Penang, 2006).

This was explained by the Head of the Mufti Department of the Fatwa Division (Tuan Haji Haniff bin Omar) at Wahab. The views of other schools have also been adopted by the Fatwa Committee in prescribing the fatwas related to muamalat; more specifically concerned with the endowment law. Many issues related to endowment, that occurred in the state of Penang, that led to the view of other schools, especially the Hanafi sect, have to be used to make room for resolving these issues and facilitating matters.

Conclusion

The Authoritative Statement of the Syafi'ite Madhhab is a term that has been firmly adopted in the implementation of fatwa in the states of Kedah and Penang. The provisions in the Mufti and Fatwa Enactment 2008, for the state of Kedah, and the Islamic Religious Administration Enactment 2004, for Penang, are clearly evidence of its position. Based on these provisions, this view is considered the most authoritative opinion in prescribing a fatwa in fiqh issues whether worship, muamalat, marriage and others.

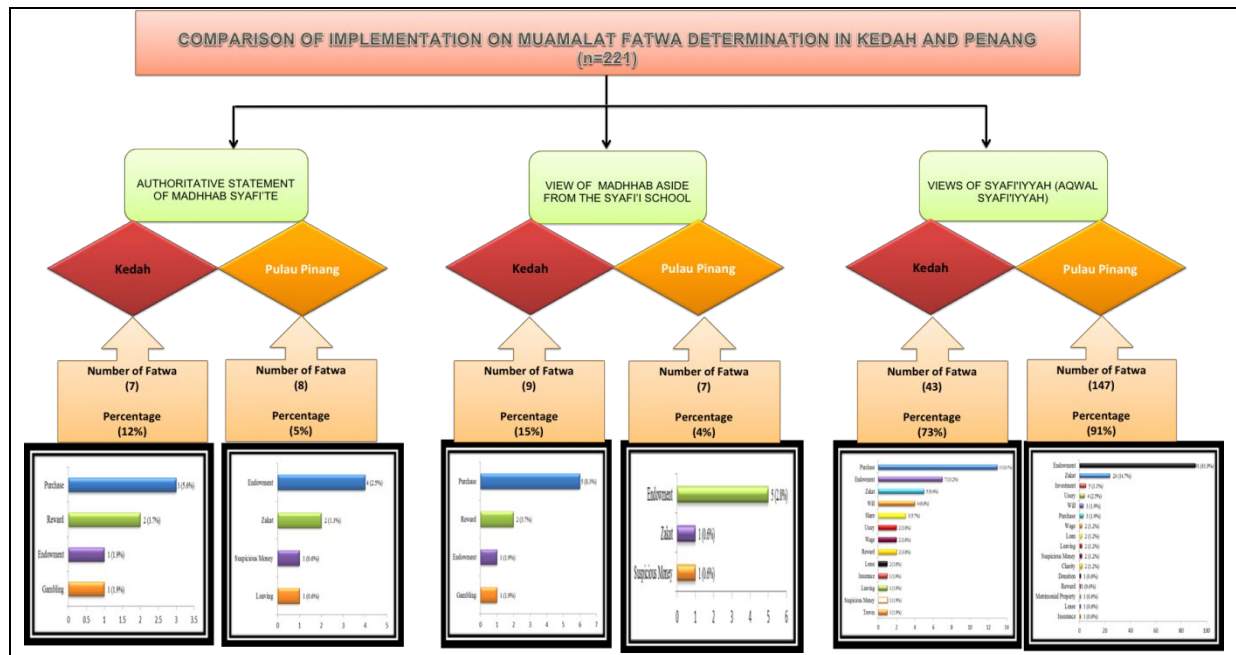
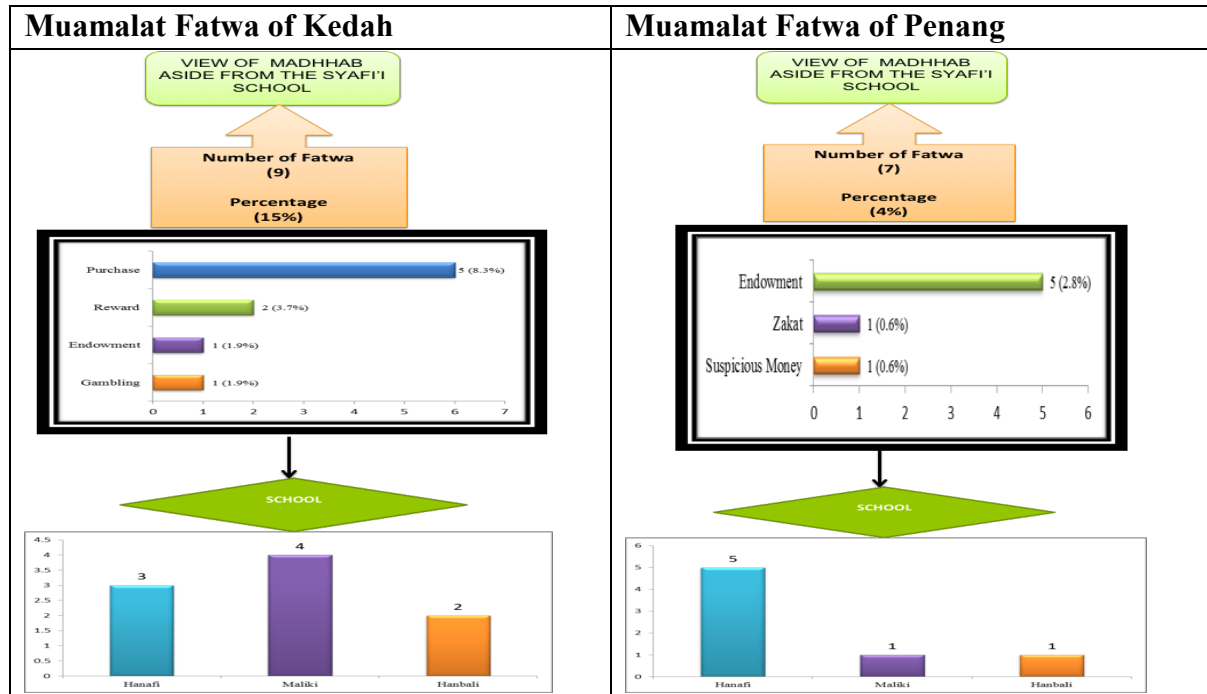


Figure 4. Comparison Implementation on Muamalat Fatwa Determination in Kedah and Penang

In the context of muamalat fatwa in the states of Kedah and Penang, the findings show that muamalat fatwas set based on the Authoritative Statement of the Syafi'ite Madhhab are in small numbers compared to the fatwa set on the basis of the views of Syafi'iyah (*Aqwal Syafi'iyah*). However, these two parts are still within the same denominational view of the Syafi'ite school. This position explains the integrity of the approach bound to Syafi'ite's school in the determination of fatwa which also involves muamalat fatwa.

Figure 5. Comparisons of the Determination of Muamalat Fatwa based on Madhhab View aside from the Syafi'i School of Kedah and Penang



However, the findings also point out that other schools of thoughts, such as Hanafi, Maliki and Hanbali, have been taken into account in the determination of muamalat fatwa in both states. Based on the two states, the views of the schools, besides the fact that most used Syafi'i school, are the views of the Hanafi school. This is because, in the course of muamalat, the views of the Hanafi School are more suitable to be applied in the current context and to bring more benefit to Muslims, especially in terms of endowment and purchasing.

This has shown the efforts made by the authority of fatwa to set muamalat fatwa which gives practical space in muamalat affairs such as purchasing, endowment, debt and others. This is a good development in dealing with today's human life.

In conclusion, the muamalat fatwa in the states of Kedah and Penang have demonstrated the openness in setting fatwa to solve the problems of muamalat of local Muslims. Muamalat fatwa determination was made while still maintaining attachment to the Syafi'ite school, but other sects were also considered to benefit the Muslim community in facing the economic and muamalat issues today.

Nevertheless, it is imperative for the Mufti Department of Kedah and Penang to formulate strategies in establishing the muamalat fatwa to be made within the existing policy framework for current needs. This is because there is still a vast space for setting a fatwa that is in keeping with the current requirement without sacrificing the principles and policies that



have been set up and provided in the law. All of this is to illustrate that the content of Islamic law is able to provide solutions to all human issues and problems across time, circumstance and place.

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