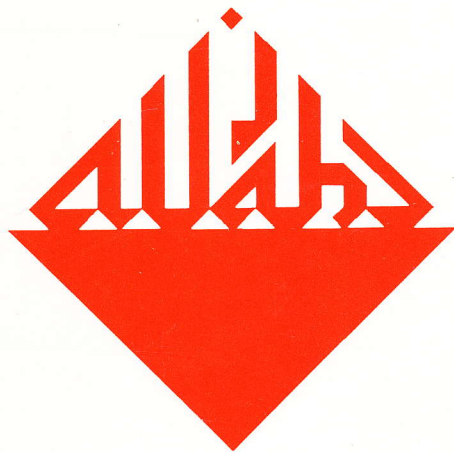


STUDIA ISLAMIKA

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Nadirsyah Hosen

Revelation in a Modern Nation State: Muhammadiyah and Islamic Legal Reasoning in Indonesia

Introduction

Following the resignation of President Soeharto in May 1998, Indonesia is attempting to reform its political, economic and legal systems. While the process of these reforms is still under way, Indonesia—as the biggest Muslim country in the world—is in a favourable position to make a contribution to Islamic teachings dealing with poverty, corruption, development and good governance issues. Although earlier scholars took the view that Islamic law became increasingly rigid and set in its final mould (Schacht, 1998: 75), the challenge for contemporary Muslim scholars is to use the institution of the *fatwâ* (legal opinion—plural: *fatâwâ*) as a tool through which a society can adjust itself to internal and external social, political, and economic change.

A *fatwâ* in Islam can be seen as an aspect of the growth and development through which Islamic teachings adapt to changing social conditions (Hallâq, 1994: 65). Although Indonesia is not an Islamic state, Indonesian Muslims are still influenced by *fatâwâ* from religious scholars ('*ulamâ*').¹ A *fatwâ* in Indonesia is issued not only by certain individual '*ulamâ*', but also by groups of '*ulamâ*' such as Nahdlatul Ulama (NU), Muhammadiyah and Majelis Ulama Indonesia (MUI). These *fatâwâ* cover matters such as ritual, charity, pilgrimage, economics, politics and other social problems which are not dealt with by the Religious Courts (*Pengadilan Agama*), the authority of which is limited to the specific areas of marriage, divorce, inheritance, *waqf* (pious endowment) and *hibah* (gifts).² The

limited jurisdiction of the Religious Courts contributes to the significance and dynamic role of Indonesian *fatâwâ*.

Unlike the case with the Religious Courts, there are no government regulations concerning *fatâwâ*. Indeed, *fatâwâ* from Indonesian 'ulamâ' do not require the approval of the government or the court. However, the significant position of the *fatwâ* in Indonesia should not be ignored. Indonesian Muslims consider 'ulamâ' as principally religious patrons, whose advice and exemplary lives are to be followed. Indonesian 'ulamâ, therefore, have much authority in interpreting the teaching and the practice of Islam. People choose to follow 'ulamâ' because they recognise certain qualities in them.³ In the words of al-Shâṭibî, 'ulamâ' or *muftî* stand before the Muslim community in the same place as the Prophet stood.⁴ For example, in 1945, KH Hasyim Asy'ari of NU issued a *fatwâ* on the religious necessity of defending Indonesian Independence and waging *jihâd* against the returning colonial Dutch Army.⁵

The two key questions addressed in this article are, first, what method of handing down *fatâwâ* has been used in Indonesia? And, second, how could the method contribute to solving the problems currently confronting Indonesia? In order to answer both questions, I will focus on one of the main Islamic organisations in Indonesia, Muhammadiyah, established in 1912.⁶ Muhammadiyah is chosen as a case study because of its approach. On the one hand, this organisation has the slogan 'to return to the Qur'ân and the *ḥadîth*' (deeds or sayings of the Prophet): a catch-cry that could be seen as one of the elements of fundamentalism'. On the other hand, however, Muhammadiyah as a 'modernist' group takes the view that Islam should be interpreted in a contemporary manner. Muhammadiyah attempts to link the revelation of 15 centuries ago with the problems of present-day Indonesia.

This article examines the attempt by Muhammadiyah to respond to the issue of returning to the primary sources—the Qur'ân and the *ḥadîth*—to resolve modern problems. The focus will be on the concept, method and source of *ijtihâd* (legal reasoning) used by Muhammadiyah. I will argue that Muhammadiyah faces several problems in formulating a method to reinterpret the Qur'ân and the *ḥadîth* and these will be critically analysed.

Having read classic Islamic sources, analysed Muhammadiyah's *fatâwâ* and interviewed Muhammadiyah's leaders, I argue that

Muhammadiyah's main contribution should be seen as its encouragement for Indonesian Muslims to use their own opinions when analysing the Qur'ân and the ḥadīth, and not simply adopt the opinions of authorities who lived several centuries ago. In this, Muhammadiyah clearly opposes the traditionalist' position, exemplified by the attitudes of the only larger Indonesian Islamic movement, Nahdlatul Ulama.⁸ While the traditionalists use the Islamic classical texts to answer modern problems, Muhammadiyah believes that those books, as the products of the social structure of classical and medieval Muslim societies, are not sufficient to deal with contemporary phenomena.

The Concept and Method of *Ijtihād*

Fatâwâ are products of *ijtihād*; that is, the issuing of a *fatwâ* involves intellectual activity. This means that in order to understand the nature of *fatâwâ*, one should analyse the concept of *ijtihād*, which, in Islamic law, can be defined simply as 'interpretation'. It is the most important source of Islamic law after the Qur'ân and the *Sunnah* (the traditions of the Prophet). The main difference between *ijtihād* and the Qur'ân and the *Sunnah* is that *ijtihād* is a continuous process of development whereas the Qur'ân and the *Sunnah* are fixed sources of authority and have not been altered or added to after the death of the Prophet (Kamali, 1991: 366).

Ijtihād literally means 'striving, or self-exertion in any activity which entails a measure of hardship' (Kamali, 1991: 367; Wehr, 1974: 142-3). According to al-Âmidî (d 631 AH/1233 CE) (1914: 218),⁹ *ijtihād* is defined as 'the total expenditure of effort made by a jurist to infer, with a degree of probability, the rules of Islamic law' (see also Kamali, 1991: 367; al-Ḥakīm, 1963: 561-2). In this sense, al-Gazâlî defined *ijtihād* as the expending, on the part of a *mujtahid*, of all that he is capable of in order to seek knowledge of the injunctions of Islamic law' (al-Gazâlî, nd: 4; al-Alwânî, 1993: 237).¹⁰

The rule of *ijtihād* originated at the time of the Prophet, when he sent Mu'âdh ibn Jabbâl to Yemen as a judge. They engaged in the following dialogue before the latter's departure:

'What will you do if a matter is referred to you for judgment?' Mu'âdh said, 'I will judge according to the Book of Allah.' The Prophet asked, 'What if you find no solution in the Book of Allah?' Mu'âdh said, 'Then I will judge by the *Sunnah* of the Prophet.' The Prophet asked: 'And what if you do not

find it in the *Sunnah* of the Prophet?' Mu'âdh said: Then I will make *ijtihâd* to formulate my own judgment.' The Prophet patted Mu'âdh's chest and said: Traise be to Allah Who has guided the messenger of His prophet to that which pleases him and His Messenger.'¹¹

The formation of schools of thought (*madhhab*; plural: *madhâhib*)¹² in Islamic law launched the issue of whether anyone at all could perform *ijtihâd*, or only a limited number of people. Al-Âmidî and al-Bayḍâwî (d 685 AH/1286 CE) agreed that only people who satisfy specific requirements can apply *ijtihâd*. According to them, there were two main conditions (*Sharḥ*) of *mujtahid*: first, to be an adult and believer in Allah and the Prophet; secondly, to be an expert in all aspects of Islamic law (*al-aḥkâm al-shar'iyyah wa aqsâmu-hâ*) (al-Âmidî, 1914, vol 3: 139; Zuhair, nd: vol 4: 225).

Furthermore, when discussing the requirements of *ijtihâd*, Imâm al-Gazâlî (d. 505 AH/1111 CE) maintained that in order to reach the rank of *mujtahid*, the jurist must also:

1. Know the five hundred verses needed in law; committing them to memory is not a prerequisite.
2. Know the way to relevant ḥadīth literature; he need only maintain a reliable copy of Abû Dâwûd's or Bayhaqî's collection rather than memorise their contents.
3. Know the substance of *furû'* works and the points subject to *ijmâ'*, so that he does not deviate from the established laws. If he cannot meet this requirement he must ensure that the legal opinion he has arrived at does not contradict any opinion of a renowned jurist.
4. Know the methods by which legal evidence is derived from the texts.
5. Know the Arabic language; complete mastery of its principles is not a prerequisite.
6. Know the rules governing the doctrine of abrogation (*naskh*). However, the jurist need not be thoroughly familiar with the details of this doctrine; it suffices to show that the verse or the ḥadīth in question have not been repealed.
7. Investigate the authenticity of the ḥadīth. If Muslims have accepted the ḥadīth as reliable, it may not be questioned. If a transmitter was known for probity, all ḥadīth related through him are to be accepted. Full knowledge of the sciences of ḥadīth criticism is not required.

Al-Gazâlî concluded that the jurist must have expertise in the science of ḥadīth (*'ilm al-ḥadīth*); the science of the Arabic language (*'ilm al-lughah*); and Islamic legal theory (*uṣūl al-fiqh*) (al-Zuhailî, 1986, vol 2: 1044-9).

Much earlier than al-Gazâlî, Muḥammad bin Idrîs al-Shâfi'î (d 204 AH) had already restricted the free use of personal opinion in law. Since the Shâfi'î era, not everybody has been permitted to practice *ijtihâd* or *qiyâs* (analogical reasoning). Shâfi'î permits a person to perform *qiyâs* only if he is well-equipped with the knowledge of the injunctions of the Qur'ân, its prescribed duties, its ethical principles (*adab*); its abrogating and abrogated verses (*nâsikh wa mansûkh*); its general (*'âmm*) and particular (*khâṣṣ*) rules; and, in general, its right guidance. According to him, a person who performs and exercises *qiyâs* must be conversant with the established *Sunnah*, the opinions of his predecessors and the agreement and disagreement of *'ulamâ*. He must also have sufficient and appropriate knowledge of the Arabic language (Hasan, 1971: 199).

However, the *'ulamâ* who lived several hundred years after Shâfi'î and al-Âmidî realised how hard it was to find a person who could fulfil the requirements of *ijtihâd*. They felt that all problems could be answered by using the old opinions of their schools. Many *'ulamâ*, therefore, came to believe that the 'gate of *ijtihâd* is closed'; that is, they adopted *taqlîd* (imitation). Amongst the *'ulamâ* who attempt to open the gate, some make the restriction that, although *ijtihâd* is available, it cannot be applied where it would entail a new *uṣūl al-fiqh* (Islamic legal theory) and new rules (*qawwâ'id*). *Ijtihâd* is open only in *furû'* (*fiqh* cases) but not in methodology. However, there are others who take the view that the door of *ijtihâd* is fully open and that there is no restriction on its use (al-Zuhailî, 1986, vol 2: 1085-90; Hallâq, 1984; 1986; 1994 cf Ali-Karamali and Dunne, 1994; Hobink, 1994; Vogel, 1992).

In this context, Muhammadiyah takes the view that those who are capable of performing *ijtihâd* have the duty to do so. Those who are not able to do so have to choose *ittibâ'*: that is, accepting or following the *fatwâ* of another person, but with the condition of knowing or understanding the principle on which the *fatwâ* is based. In other words, everyone who accepts the idea or *fatwâ* of an *'âlim* (plural, *'ulamâ*) is required to understand the meaning and the position of the religious argument justifying its decision, rather

than accepting the *fatwâ* without reserve. Thus, for Muhammadiyah, there are three classifications of intellectual activity, rather than two, namely: *ijtihâd* (endeavour), *ittibâ'* (imitation with understanding) and *taqlîd* (imitation).

By accepting the concept of *ijtihâd* and *ittibâ'*, Muhammadiyah strongly rejects mere *taqlîd*, which is understood by Muhammadiyah leaders to mean the adoption of, and adherence to, the established idea or opinion of earlier '*ulamâ*, without knowing the bases for their judgments. Muhammadiyah thus refuses to be bound by the classic text books of the schools of Islamic law.

Its slogan to return to the Qur'ân and the *Sunnah*' indicates that Muhammadiyah chooses to solve problems in Islam by directly analysing both of these sources, without looking to the opinions of the schools of Islamic law. However, as the late Chairman of Muhammadiyah stated (Basyir, 1994: 280) this does not mean that Muhammadiyah does not consider the opinions and the textbooks of the schools (*madhâhib*) at all. Although Muhammadiyah is described as anti-*madhhab*, by which is meant that it refuses to accept or follow strictly any school, the organisation will accept opinions of the schools as long as they are founded upon the Qur'ân and the *Sunnah*. In short, the validity of all *fatâwâ*, ideas and religious practices must be based directly on the Qur'ân and the *Sunnah* (and not just upon subsequent scholarly traditions).

What method is followed by Muhammadiyah in performing *ijtihâd*? Strictly speaking, Muhammadiyah has never produced a formal method for issuing a *fatwâ* (Djamil, 1997). However, this does not mean that its *fatâwâ* are never based on a method or on Islamic legal theory. Usually, in Islamic jurisprudence the method comes first, then the *fatwâ* is issued. However, Muhammadiyah produces *fatâwâ* first, then analyses them to adumbrate a method. Thus, although it has issued *fatâwâ* since 1929, it explained its 'method' only in 1989 in 'Guide to Methods which have been used by the Majelis Tarjih'.¹³ Even then, this was not so much a real explanation, but more a form of technical guidance for members of the Majelis Tarjih¹⁴—the consultative body of experts established in 1927 and charged with formulating the theological basis for Muhammadiyah's ideology. The Majelis Tarjih provides a forum in which mutual understanding can be applied in grappling with religious and social problems. Before

issuing a *fatwâ*, the Majelis Tarjih holds a meeting, which it has done 23 times from 1927 to 1998.

Specifically, the methodology endorsed by Muhammadiyah is as follows. First, it regards the main sources of Islamic law as the Qur'ân and the *Sunnah*; secondly, in order to deal with those contemporary problems relating to *fiqh*—which have nothing to do with '*ibâdât maḥḍah* (pure ritual)—*ijtihâd* and *istinbât* (eliciting a judicial ruling by studying relevant texts) must be pursued by examining the '*illat* (effective cause or ratio legis),¹⁵ as has been done by '*ulamâ*' in classic (*salaf*) and modern (*khalaf*) times.¹⁶ According to Muhammadiyah, the role of '*aql* (reason) in dealing with contemporary *fiqh* problems, as long as they relate to worldly matters, is significant. However, this does not mean that Muhammadiyah prefers to use reason freely, particularly where cases are already explicitly regulated in the Qur'ân and the *Sunnah* (Djamil, 1995a).

In order to avoid the problem whether or not Muhammadiyah is capable of performing *ijtihâd*, it performs *ijtihâd* collectively. This ensures that all the conditions to be *mujtahid* will be held collectively, even if not possessed by each jurist individually. Through this combined effort, *ijtihâd* is neither as difficult nor as exclusive as was previously the case. Furthermore, this collective method permits the resolution of complex modern problems without the fanaticism of the schools of Islamic law (Hosen, 2001). Before issuing a *fatwâ*, Muhammadiyah holds a meeting and discusses the matter. Individual opinion, according to Muhammadiyah, is not recognised as official *fatâwâ* from the organisation (Basyir, 1994: 280; PP Muhammadiyah, 1989: 21-5). In performing *ijtihâd* collectively, Muhammadiyah regards *qiyâs* (analogy), *istiḥsân* (preference),¹⁷ *istiṣlâḥ* (public benefit)¹⁸ and *sadd al-dharî'ah* (blocking the means to inevitable evil)¹⁹ as constituting the methodology of *ijtihâd* (Djamil, 1995a).

According to Muhammadiyah, *ijtihâd* can be conducted in one of three ways: *ijtihâd bayânî*, *ijtihâd qiyâsî* and *ijtihâd istiṣlâḥî*.²⁰ The first method (*ijtihâd bayânî*) may be applied to cases which are explicitly mentioned in the Qur'ân or ḥadîth but need further explanation. The second method (*ijtihâd qiyâsî*) may be applied to cases which are not mentioned in these two sources, but which are similar to cases mentioned in them and so analogy may be used. The third method (*ijtihâd istiṣlâḥî*), may be applied to those cases which

are not regulated by the Qur'ân or ḥadīth and cannot be solved by using analogical reasoning. In this case, *istiṣlâḥ* is considered to be the basis for legal decisions (Basyir, 1994: 281). Moreover, as Djamil (1995b: 150-2) notes, Muhammadiyah accepts the theory of *maqâṣid al-sharī'ah* (the objectives of Islamic Law²¹) as well, because, for Muhammadiyah, *istiṣlâḥ*, is a basis of *maqâṣid al-sharī'ah*, and this is a very important element in dealing with the *mu'âmalat* (human relations) aspect. This means that the use of *ijtihād istiṣlâḥî* leads Muhammadiyah to accept the theory of *maqâṣid al-sharī'ah*.

Muhammadiyah accepts *ijmâ'* from all Companions of the Prophet as an element in issuing a *fatwâ*. The Companions' opinions on *mushtarak* (a word or a phrase in the Qur'ân or the *Sunnah* imparting more than one meaning) are also accepted. However, according to Muhammadiyah it is not compulsory to follow the interpretation of a Companion on matters of theology, since it is not the same as *ijmâ'* (consensus) (Basyir, 1994: 281).

Conflict (*ta'âruḍ*) occurs when two pieces of evidence of apparently equal strength assert the opposite of the other. If this happens, according to Muhammadiyah, it may be solved by reconciling those pieces of evidence. If this is impossible, Muhammadiyah employs *tarjīḥ*, that is, it chooses the stronger piece of evidence.

Several observations can be made about this method. First, Muhammadiyah has adopted an 'eclectic' position in Islamic legal theory. This means that it does not follow strictly any method from any school of Islamic law. It chooses its own method by selecting the method of Islamic legal theory which is more suitable for its own particular circumstances. This position frees Muhammadiyah from having to develop a new method of its own.

However, this position could be seen as inconsistent, since each method has a different premise. Choosing one aspect of the method without considering the premise of the method risks using a method in an inappropriate way. For example, Muhammadiyah follows the majority of 'ulamâ' who take the view that ḥadīth *aḥad* (a ḥadīth reported by a single person) can be used to specify the general meaning of the Qur'ân. This means that Muhammadiyah does not follow Ḥanafī opinion on this issue (al-Khin, 1982: 206-8). On the other hand, it does follow Ḥanafī opinion—but not the Shâfi'î view—when it uses *istiḥsân* (preference). Another aspect of this eclecticism is that 'ulamâ' of Muhammadiyah follow the Mâlikî

school in accepting *istiṣlâh* (public benefit) thus differentiating themselves from the Ḥanbalî doctrine on this point. However, Muhammadiyah does occasionally follow the Ḥanbalî school as, for example, in relation to *ijmâ'* and *qiyâs*.

The question is, what is the principle upon which Muhammadiyah chooses, or rejects, an opinion or method? Unfortunately, there is no clear explanation. In the case of life insurance, Djamil (1995b: 158) provides evidence that Muhammadiyah uses three methods simultaneously, *qiyâs*, *istiṣlâh* and *istiḥsân*, with the result that Muhammadiyah's *fatâwâ* on this issue have become ambiguous.

Chains of Authority

How does one know that the Qur'ân and the ḥadîth read today are authentic? Islam relies upon the theory of chains of reporters. It is believed that the entire text of the Qur'ân has been retained both in memory and in written record throughout the generations and so the authenticity of the Qur'ân is proven by universally accepted testimony. However, in the case of ḥadîth, not all the text is authentic. Ḥadîth is composed of two parts: the *matn* (text) and the *isnâd* (chain of reporters). A text may seem to be logical and reasonable but it needs an authentic *isnâd* with reliable reporters to be acceptable: 'Abdullâh b al-Mubâarak (d. 181 AH) said: 'The *isnâd* is part of the religion: had it not been for the *isnâd*, whoever wished to would have said whatever he liked' (see further Muslim, 1972: Introduction). During the lifetime of the Prophet and after his death, his Companions used to refer to him directly, when quoting his sayings. The next generation (*tâbi'ûn*) followed suit; some of them quoted the Prophet through the Companions, while others would omit the intermediate authority. It was found that the missing link between the *tâbi'ûn* and the Prophet might be one person, that is, a Companion, or two people, the extra person being an older Successor who heard the ḥadîth from the Companion. This is an example of how the need for the verification of each *isnâd* arose. The other more important reason was the deliberate fabrication of ḥadîth by various sects.

According to the number of reporters involved in each stage of *isnâd*, at least two categories of ḥadîth can be identified: ḥadîth *mutawâtir* (consecutive) and ḥadîth *aḥad* (isolated). Ḥadîth *mutawâtir* is a ḥadîth that is reported by such a large number of people that

they cannot all be expected to agree upon a lie, while *ḥadīth aḥad* (isolated) is a *ḥadīth* which is narrated by a single person or by people whose number does not reach that of the *mutawâtir*.

The clear injunctions of the Qur'ân and *ḥadīth mutawâtir* are all *qafî* (a sure indicator) in respect of both transmission and meaning, and this is accepted by Muhammadiyah. However, although Muslims agree about the primacy of *mutawâtir*, they hold different opinions about the numbers of narrators for a *ḥadīth* to be accepted as *mutawâtir*. Al-Âmidî defines *mutawâtir* as a report of a group which yields, of its own accord, knowledge of the fact reported (Weiss, 1992: 277). But, how does one define 'a group'? Some believe two persons are enough; others that four are needed, others again insist that a *ḥadīth* will achieve the degree of *mutawâtir* only when 70 or more narrate it (see al-Ḥakîm, 1963: 195; al-Ṭaḥḥân, 1981: 19).

The implication of this debate is that it is possible for there to be a *ḥadīth* claimed as *mutawâtir* on one criterion but not on another. For example, when Muhammadiyah explains matters of Islamic faith, it has argued with a *ḥadīth*. An example follows.²²

Narrated 'Abdullâh ibn 'Umar ibn al-Khaṭṭâb:

It is narrated on the authority of Yaḥyâ ibn Ya'mar that the first man who discussed *Qadr* (divine decree) in Basrah was Ma'bad al-Juhannî. Humayd ibn 'Abd al-Raḥmân al-Ḥimyarî and I set out for Pilgrimage or for *'Umrah* and said: "Should it so happen that we come into contact with one of the Companions of the Messenger of Allah (peace be upon him) we shall ask him about what is talked about *Taqdir* (God's decree)." Accidentally we came across 'Abdullâh ibn 'Umar ibn al-Khaṭṭâb, while he was entering the mosque. My companion and I surrounded him. One of us (stood) on his right and the other stood on his left. I expected that my companion would authorize me to speak. I therefore said: "Abâ 'Abd al-Raḥmân! There have appeared some people in our land who recite the Holy Qur'ân and pursue knowledge."

And then after talking about their affairs, added: "They (such people) claim that there is no such thing as divine decree and events are not predestined." He ('Abdullâh ibn 'Umar) said: "When you happen to meet such people tell them that I have nothing to do with them and they have nothing to do with me. And verily they are in no way responsible for my (belief)."

'Abdullâh ibn 'Umar swore by Him (the Lord) (and said): "If any one of them (who does not believe in the divine decree) had with him gold equal to the bulk of (the mountain) Uḥud and then spent it (in the way of Allah), Allah would not accept it unless he affirmed his faith in divine decree." He further said: "My father, 'Umar ibn al-Khaṭṭâb, told me: One day we were

sitting in the company of Allah's Apostle (peace be upon him) when there appeared before us a man dressed in pure white clothes, his hair extraordinarily black. There were no signs of travel on him. None amongst us recognized him.

At last he sat with the Apostle (peace be upon him). He knelt before him placed his palms on his thighs and said: "Muhammad, inform me about *al-Islâm*." The Messenger of Allah (peace be upon him) said: "*Al-Islâm* implies that you testify that there is no god but Allah and that Muhammad is the messenger of Allah, and you establish prayer, pay *zakât*, observe the fast of Ramadan, and perform pilgrimage to the (House) if you are solvent enough (to bear the expense of) the journey." He (the inquirer) said: "You have told the truth."

He ('Umar ibn al-Khaṭṭâb) said: "It amazed us that he would put the question and then he would himself verify the truth." He (the inquirer) said: "Inform me about *al-Îmân* (faith)." He (the Holy Prophet) replied: "That you affirm your faith in Allah, in His angels, in His Books, in His Apostles, in the Day of Judgment, and you affirm your faith in the divine decree about good and evil." He (the inquirer) said: "You have told the truth." He (the inquirer) again said: "Inform me about *al-Iḥsân* (performance of good deeds)." He (the Holy Prophet) said: "That you worship Allah as if you are seeing Him, for though you don't see Him, He, verily, sees you." He (the enquirer) again said: "Inform me about the hour (of the doom)." He (the Holy Prophet) remarked: "One who is asked knows no more than the one who is inquiring (about it)." He (the inquirer) said: "Tell me some of its indications." He (the Holy Prophet) said: "That the slave-girl will give birth to her mistress and master, that you will find barefooted, destitute goat-herds vying with one another in the construction of magnificent buildings."

He (the narrator, 'Umar ibn al-Khaṭṭâb) said: "Then he (the inquirer) went on his way but I stayed with him (the Holy Prophet) for a long while." He then, said to me: "'Umar, do you know who this inquirer was?" I replied: "Allah and His Apostle knows best." He (the Holy Prophet) remarked: "He was Gabriel (the angel). He came to you in order to instruct you in matters of religion". (Muslim, HN: 9; Nasa'î, HN: 4,904; Ibn Mâjah: HN: 62; Ahmad, HN: 8.765.)

This text appears in the *Ṣaḥîḥ Muslim* but Bukhârî does not include it in his *Ṣaḥîḥ al-Bukhârî*. Bukhârî, however, reported another text twice, as follows:

Narrated Abû Hurairah:

One day while the Prophet was sitting in the company of some people, (The angel) Gabriel came and asked, "What is faith?" Allah's Apostle replied, "Faith is to believe in Allah, His angels, (the) meeting with Him, His Apostles, and to believe in Resurrection." Then he further asked, "What is *Islâm*?" Allah's Apostle replied, "To worship Allah alone and none else, to offer prayers perfectly, to pay the compulsory charity (*zakât*) and to observe fasts during the month of Ramadan." Then he further asked, "What is *Iḥsân*?" Allah's Apostle replied, "To worship Allah as if you see Him, and

if you cannot achieve this state of devotion then you must consider that He is looking at you." Then he further asked, "When will the Hour be established?" Allah's Apostle replied, "The answerer has no better knowledge than the questioner. But I will inform you about its portents. First, when a slave (lady) gives birth to her master. Second, when the shepherds of black camels start boasting and competing with others in the construction of higher buildings. And the Hour is one of five things which nobody knows except Allah.

The Prophet then recited: "Verily, with Allah (Alone) is the knowledge of the Hour." (31. 34) Then that man (Gabriel) left and the Prophet asked his companions to call him back, but they could not see him. Then the Prophet said, "That was Gabriel who came to teach the people their religion." Abū 'Abdullāh said: He (the Prophet) considered all that as a part of faith. (Bukhârî, HN: 48 and 4,404; Ibn Mâjah: HN: 63; Ahmad, HN: 9,137).

The above text is also reported in *Ṣaḥîḥ Muslim* (ḥadîth No (HN) 10). This means that the latter text is accepted by Bukhârî (whose collection of ḥadîth's is considered the most authentic of all books after the Qur'ân) and Muslim (whose collection of ḥadîth is considered most authentic after *Ṣaḥîḥ Bukhârî*) and, therefore, holds a stronger position than the first, which is reported by Muslim alone.

In summary, comparing the *Ṣaḥîḥ Bukhârî* and the *Ṣaḥîḥ Muslim* as to what they say regarding the pillars of Islam and faith, *Ṣaḥîḥ Bukhârî* mentions 'Faith is to believe in Allah, His angels, (the) meeting with Him, His Apostles, and to believe in Resurrection;' and Islam means 'To worship Allah Alone and none else, to offer prayers perfectly, to pay the compulsory charity (*Zakât*) and to observe fasts during the month of Ramadan'. By contrast, *Ṣaḥîḥ Muslim* (HN 9) reports that '[t]o perform pilgrimage to the (House) [that is, the *Ka'bah* in Mecca] if you are solvent enough (to bear the expense of) the journey' is also a part of the Islamic pillars. Likewise, that 'you affirm your faith in the divine decree about good and evil' is also added of the faith. One should note that Muhammadiyah cites *Ṣaḥîḥ Muslim* (HN 9) which has a different text to that of Bukhârî, instead of citing *Ṣaḥîḥ Muslim* (HN 10) which is in agreement with Bukhârî. This suggests that Muhammadiyah is not aware that the text which is reported by both Bukhârî and Muslim is stronger than the text reported either by Bukhârî or Muslim alone.

Another point is that although the ḥadîth from *Ṣaḥîḥ Muslim* (HN 9) is narrated by eight Companions (al-Kitânî, HN: 13) this text cannot achieve the standard of *mutawâtir* if the criteria of 10 or

70 people are used. These different criteria lead some Muslims, for example al-Maudûdî (1981: 79), to take the view that, instead of six, Islam has only five articles of faith. Unfortunately, Muhammadiyah, which believes that there are six articles of faith, does not explain its own criteria for selection of a ḥadīth *mutawâtir* or why it believes that this ḥadīth is ḥadīth *mutawâtir*.

The number of reporters required to define 'a group' for ḥadīth *mutawâtir* are derived by analogy. The requirement of 4 is based on the similar number of witnesses required for legal proof; the requirement for 20 is derived from Qur'ân (8: 65) (the number required to vanquish unbelievers). The next number (70) represents an analogy to another text of the Qur'ân (7: 115) referring to the 70 companions of Moses. Others scholars have drawn analogy from the number of participants in the battle of Badr (313 persons). It remains unclear why Muhammadiyah has not formulated its own criteria.

Thirdly, as mentioned, Muhammadiyah rejects *taqlîd* (imitation). However, this raises the question of the tools which they should use to analyse the Qur'ân and the ḥadīth. It is proposed here that they should use *qawâ'id uşûliyyah* (the principles, norms or rules of Islamic legal theory) and *qawâ'id fiqhiyyah* (the principles, norms or rules of Islamic law derived from the detailed study of the *fiqh*). If they wish to use *ijtihâd*, then, they should establish their own *qawâ'id* (rules or norms). Muhammadiyah have produced 11 *qawâ'id* under the title *Uşûl al-Fiqh* (Muhammadiyah, nd: 300-1). It should be noted, however, that those 11 *qawâ'id* are only a small part of *uşûl al-fiqh*. To be precise, Muhammadiyah only issues a rule for accepting ḥadīth by choosing an 'ulamâ's opinion on this issue. This means that Muhammadiyah does not create a new method or develop its own *qawâ'id*.

To sum up, although Muhammadiyah accepts *ijtihâd* and rejects *taqlîd*, it cannot be said that Muhammadiyah has performed *ijtihâd* independently. With respect to the rank of *mujtahid*, Muhammadiyah cannot be seen as *al-mujtahid al-mustaqil* because creating a rule of *uşûl al-fiqh* is a major condition for this category.²³ Lubis (1993: 83-102) takes the view that Muhammadiyah stands in the position of *mujtahid fî al-madhhab* because it still follows the 'ulamâ' texts. However, according to Djamil (1995b: 159), Muhammadiyah falls into the class of *mujtahid murajjih* (lower than *mujtahid fî al-*

madhhab) since it does not follow strictly any method required at the level of *mujtahid fī al-madhhab*. Djamil is correct. Muhammadiyah is clearly eclectic. It seems that it examines the best and strongest one from a number of methods or opinions by '*ulamâ*'. Indeed, the title *mujtahid al-tarjih* is even reflected in the name of Muhammadiyah's 'Majelis Tarjih' itself.²⁴

Fourthly, Muhammadiyah does not directly use social analysis as one of its methods. This indicates that Muhammadiyah views modern Muslim problems only from the *fiqh* perspective. Their *fatâwâ* speak only about what is forbidden and what is permitted according to the Holy Book and the *Sunnah*. Yet the problems facing contemporary Muslims require original *fatâwâ* and this requires a more socially aware approach.

Technical Competence

Knowledge of the membership of the Majelis Tarjih is important for an understanding of the character of collective *ijtihâd*: that is, we need to know who forms the consensus to determine its worth. Muhammadiyah has limited membership in the Majelis Tarjih to '*ulamâ*' (male or female)²⁵ who have the ability to weigh, select or solve problems through valid argument. The council is composed of individuals who have different areas of expertise, enabling them to guide their communities. Jainuri (1997: 101) explains that:

[T]hey were leaders who were concerned with the problems facing their community. Therefore, they required not only spiritual knowledge but also practical skills, foresight and long-term commitment. Conventionally, *ijtihâd* had been performed on the basis of requirements that were suitable for the medieval period. If these requirements were to be applied in the present, it was doubtful whether *ijtihâd* would be able to offer new insights into the role of religion in the context of modern developments. To implement *ijtihâd* in the twentieth century, various situational requirements such as the Indonesian language, local and national laws, and the various rules of the Indonesian government had to be taken into consideration. Meanwhile, the accumulation of all these requirements in a single individual was an unrealistic expectation. Therefore, the gathering of people from various backgrounds in the Majelis Tarjih represented a collective fulfilment of the requirements of *ijtihâd*.

In order to demonstrate the capacity to weigh, select and solve problems through valid argument, the members of Majelis Tarjih must, at least, be able to read and understand *Subul al-Salâm*, a secondary book of ḥadīth. This requires qualifications in Arabic (Djamil, 1995b: 68). However several members of the Majelis Tarjih, especially those from provincial branches, are not able to read Arabic texts properly (KaTaah, 1998: 255). Djamil does not reject this criticism. Rather he takes the view that this is a logical consequence of Muhammadiyah using collective *ijtihad*, with many scholars such as medical doctors, engineers, or lawyers—who do not have qualifications in Arabic—participating in the process.²⁶ Abdurrahman highlights the problems of formulating strict criteria for membership of the Majelis Tarjih. He says that it is hard to examine other people's qualifications because there is no suitable examination.²⁷ Therefore, one is obliged to look at either the academic qualifications of members, or their contributions to Muslim society.

Several Muslim scholars have been concerned over Muhammadiyah's lack of knowledge of *qawâ'id uṣûliyyah* (the principles, norms or rules of Islamic legal theory) and *qawâ'id fiqhiyyah* (the principles, norms or rules of Islamic law).²⁸ For example, Suma (1995: 55) takes the view that knowledge of *uṣûl al-fiqh* is one of the keys to performing *ijtihad*. Unfortunately, according to him, Muhammadiyah does not have many qualified scholars in the field of *uṣûl al-fiqh*. Professor Muardi Chatib, from Muhammadiyah, rejects this criticism and claims that Muhammadiyah has used *uṣûl al-fiqh*,²⁹ although this is obviously not a full answer. Professor Asymuni Abdurrahman, a former chairman of the Majelis Tarjih, recognises that many of Muhammadiyah's 'ulamâ' indeed do not have the required technical knowledge of *uṣûl al-fiqh*. It is for this reason that he writes an article on *uṣûl al-fiqh* in each edition of *Suara Muhammadiyah*, the official magazine of the organisation, in order to provide accessible explanations to the members of Muhammadiyah about *qawâ'id uṣûliyyah* and *qawâ'id fiqhiyyah*.³⁰

The list below contains names of several active members of the Majelis Tarjih from the 1970s:

- Professors:** Asymuni Abdurrahman, Syuhudi Ismail, Amir Syarifuddin, Muardi Chatib, Peunoh Daly, Muhammad Amin Suma, and Chamamah.
- Postgraduates:** M Amin Abdullah, Fathurrahman Djamil, Afifi Fauzi Abbas, Ahmad Azhar Basyir.

Graduates: Moh Waznan, Sholeh Imam, DQ Mukhtar, Marzuki Rasyid, Fahmi Muqaddas, A Shomad Abdullah.

Others: M Djuwaini, Umar Affandi, Ibnu Jarir, Muhammad Thahir Badri, Moh Gusti, M Wardan Diponingrat, Amir Ma'sum, Aslam Zainuddin, Dalhar BKN, Omo Suyatna, Umar Thalib, Jayadi Noer, Moh Shiddiq, Harun Ma'ani, M Nur Hajji, Mas'adi, Hambali Ahmad, Moh Disan, Muchtar Yatim, Bahri Wahid, M Jamil Muda, Hilal, Hasan Basri, AE Madjid, Zafrullah Salim, Aslam Zainuddin, Bakir Saleh.

Several observations can be made regarding this list. First, with the exception of KH Azhar Basyir, who graduated from Cairo University, and Dr M Amin Abdullah, who was awarded his PhD at Ankara University, these members are all graduates from Indonesian universities or the State Institute of Islamic Studies in Indonesia. None of them has a degree from a Western university.

Secondly, most of the above are men, excepting Professor Chamamah.³¹ She is the first woman to become an official member of the Majelis Tarjih (1995-2000) and is a Professor of Arabic at a major university in Yogyakarta.

Thirdly, Professor Ismail and Professor Daly passed away several years ago. Professor Suma rejects association with Muhammadiyah instead, he claims to stand as an independent scholar, who can work together with other scholars from any Islamic organisation. Therefore, currently the Majelis Tarjih has only three professors in Islamic studies who are active members.

Fourthly, there was a new development when Dr M Amin Abdullah became the youngest Chairman of the Majelis Tarjih (1995-2000) in the history of Muhammadiyah. His expertise is in Islamic philosophy, rather than Islamic law. Does this mean that there is no scholar of Islamic law on the Majelis Tarjih? Muhammadiyah does have among its members Dr Fathurrahman Djamil and Dr Afifi Fauzi Abbas—both lecturers in Islamic law at UIN Jakarta—yet neither was placed on the Majelis Tarjih. Why did Muhammadiyah choose Abdullah as the Chairman of the Majelis Tarjih? The problem, it seems, is that the previous Chairmen of Majelis Tarjih, such as Basyir and Abdurrahman, originated from Yogyakarta. According to Djamil, the Yogyakarta group and the Jakarta group form 'blocks' Amin Abdullah is from the Yogyakarta group, and it is claimed that, although he is not expert in Islamic law, the Yogyakarta group promoted him.³²

A better explanation comes from Abdurrahman. He states that, although Amin Abdullah is not a *kyai* (Javanese honorific for an Islamic scholar), he is a Muslim who is also a prominent scholar. Modern Muslim problems need answers not only from the viewpoint of Islamic law, but also from other perspectives, such as theology, and many verses in the Qur'ân need to be reinterpreted in the light of science and technology. That is why the Majelis Tarjih should admit members from other disciplines, and not speak only of *fiqh*. This could explain the additional current title of the council, 'Majelis Tarjih *dan* Pengembangan Pemikiran Islam' (The Council for Tarjih *and* the Development of Islamic Thought—emphasis added).

Fifthly, none of those listed above is an expert in any of the secular disciplines. This does not mean that Muhammadiyah never invites scholars who are experts in non-Islamic fields to discuss matters. Muhammadiyah has many experts among its general membership in the non-*fiqh* field such as M Din Syamsuddin (Islamic politics), M Amien Rais (political science—head of Partai Amanat Nasional, National Mandate Party, and speaker of the Majelis Permusyawaratan Rakyat, People's Consultative Assembly), Ahmad Syafi'i Ma'arif (history), Ismail Suny (constitutional law), M Dawam Rahardjo (economics) and Malik Fadjar (education—a Minister of Religious Affairs in the Habibie cabinet (1998-99) and a Minister of National Education in the Megawati Cabinet (2001-04)). In the case of in-vitro fertilisation, for example, Muhammadiyah invited many scholars of science to advise on this issue, before issuing its *fatwâ* on the subject (PP Muhammadiyah, nd: 309).

The Majelis Tarjih does not issue its *fatâwâ* directly to the public, not even to Muhammadiyah members, but refers them first to the organisation's Central Board for endorsement or reformulation. The Central Board has the right to withhold such endorsement, and to refer it back to the Majelis Tarjih for further study and research. For example, the *fatwâ* of 1932—that women could not go out for a day or longer, unless accompanied by a *muḥrim* (a relative whom one is prohibited from marrying, who is for religious purposes a safe travelling companion)—was referred back to the Majelis Tarjih (Noer, 1973: 82).³³ The Central Board has the right to interfere or 'veto', by cancelling or modifying a *fatwâ*.

According to Djamil, if there are differing *fatâwâ* issued by the Majelis Tarjih at provincial and national levels, the *fatwâ* at national level receives higher status in terms of the organisation. However, this does not mean that members in that area are not allowed to implement the decision from the Majelis Tarjih at provincial level. At the same time, the Majelis Tarjih at the national level will give the provincial level council the opportunity to review its *fatwâ*.³⁴ Clearly, this indicates a pluralist element in the process of issuing *fatâwâ*. In other words, the Majelis Tarjih's decision does not imply hostility to other opinions, and it does not challenge or denounce other opinions (Noer, 1973: 83).

Sources of *Fatâwâ*

For the sources of its *fatâwâ*, Muhammadiyah refers to the Qur'ân and ḥadīth. It should be noted that there is no book of *tafsīr* (text-book of Qur'ânic exegesis) referred to in the texts of Muhammadiyah's *fatâwâ*. This does not mean that Muhammadiyah never uses books of *tafsīr*, as it cites 'Abdullâh bin Abbâs's opinion on the verse of '... *aw lâmastum al-nisâ'*' (Qur'ân, 4: 43). Unfortunately, Muhammadiyah does not quote the complete source.³⁵ Muhammadiyah has, however, cited *Tafsīr Ibn Kathīr* in the case of *qunûṭ*.³⁶ Although the complete source is given, surprisingly, Muhammadiyah has cited this book of *tafsīr* in order to quote a ḥadīth from Bukhârî, regarding the exegesis of the Qur'ân (3: 128). The question is, why does Muhammadiyah not cite directly from Bukhârî's book? Again, this is an indication of the eclectic approach of Muhammadiyah.

Muhammadiyah cites the texts of the ḥadīth not from the six or nine major books of ḥadīth (*al-kutub al-sittah* or *al-kutub al-tis'ah*) but from *Nail al-Awḥâr*, *Bulûg al-Marâm*, *Subul al-Salâm*, and *al-Lu'lu' wa al-Marjân*. In other words, the tendency is to use secondary books of ḥadīth³⁷ instead of *al-kutub al-tis'ah*, that is *Ṣaḥīḥ Bukhârî*, *Ṣaḥīḥ Muslim*, *Sunan Abî Dâwud*, *Sunan al-Tirmîdhî*, *Sunan al-Nasâ'î*, *Sunan Ibn Mâjah*, *Sunan al-Dârimî*, *al-Muwaṭṭa'* and *Musnad Aḥmad ibn Ḥanbal*.³⁸

Citing from secondary sources poses the risk of falling into misquotation. This has happened with Muhammadiyah determining what should be read at the end of prayer. Muhammadiyah cites *Bulûg al-Marâm* that the Prophet read '*al-Salâm 'alaikum wa rahmat Allâh wa barakâtuh*' while he was turning his face to the right

and to the left. This text, according to Muhammadiyah, is narrated by Abû Dâwud (PP Muhammadiyah, nd: 99). Muhammadiyah does not directly cite *Sunan Abî Dâwud* because, the author of *Bulûg al-Marâm* cites the text with the additional word '*wa barakâtuh*' (al-San'ânî, nd, vol 1: 195). Actually, Abû Dâwud reports that the word '*wa barakâtuh*' is used only when the Prophet turned his face to the right side and when he turned to the left side he only read '*al-salâm 'alaikum wa raḥmat Allâh*' (Dâwud, HN: 846). Muhammad-iyah falls into the trap of misquotation in this case, because it does not quote the primary source.³⁹

Indeed, Muhammadiyah very rarely identifies the complete text and source when citing the ḥadîth. This leads to problems, particularly when one needs to compare the text of ḥadîth with the primary sources. For instance, the issue of descending into the position of prostration (*sujûd*): should it be hands or knees first? Muhammadiyah takes the view that it should be knees first. It quotes a ḥadîth from Abû Hurairah, 'When one performs *sujûd* he should not kneel like a camel which places its hands before its knees' (PP Muhammadiyah, nd: 92).⁴⁰ However, if one looks at *Sunan Abî Dâwud*, (HN 714), one will find a different text, 'When one performs *sujûd* he should not kneel like a camel, so place his hands first before his knees'. Muhammadiyah does not quote the primary source and, therefore, it quotes differing texts. The first text, which is quoted by Muhammadiyah, is: '*idhâ sajada aḥadukum falâ yabruk kamâ yabruk al-ba'îr yaḍa' yadayh qabla rukbatayh*'. Compare this with the second text, which is from the primary source: '*idhâ sajada aḥadukum falâ yabruk kamâ yabruk al-ba'îr walyaḍa' yadayh qabla rukbatayh*'.⁴¹ The bold words, despite being only slightly different, raise serious linguistic issues translating and understanding the meaning of these ḥadîth. In the first text, the word *yaḍa'* explains the character of the camel—descending to its 'hands' first before its 'knees'—which a Muslim should not follow when performing prayer (Ibn Gazi, 1999), whereas the word *walyaḍa'* in the second text contains an obligation to go down on the hands before the knees in order not to follow the camel.

The point is that although Muhammadiyah has the slogan to return to the Qur'ân and the ḥadîth, in several cases it refers to both texts without using the primary sources and even without mentioning the complete sources or the full texts.

In February 1989 the Majelis Tarjih held its national conference. In the reports of the meeting, it was emphasised that the Majelis Tarjih not only consulted the original text of the Qur'ân and ḥadīth but also used the *kitab kuning* (the classical Islamic books) which are commonly used by traditional Islamic schools (*pesantren*) and the NU (*Editor*, 18 February 1989). For example, Muhammadiyah has quoted books of *fiqh* such as *I'ânah al-Ṭalibîn*, *al-Mugnî li Ibn Qudâmah*, and *Fatḥ al-Qadîr*. Interestingly, not only the classic books of *fiqh*, but also modern ones, such as *al-Fiqh al-Islâmî wa Adillatuh* by Wahbah al-Zuhailî, are quoted (Majelis Tarjih Muhammadiyah, 1998: 49). Muhammadiyah has also used *Mîzân al-I'tidâl fî Naqd al-Rijâl* by Shams al-Dîn al-Ṣahâbî, (Lubis, 1993: 92) and *Naṣb al-Râyah li Aḥadīth al-Hidâyah* by Jamâl al-Dîn al-Zaila'î al-Ḥanafî, and the works of Nâsir al-Dîn al-Bânî in order to analyse the validity of the ḥadīth (Majelis Tarjih Muhammadiyah, 1998: 47-8; 122). This means that Muhammadiyah has actually borrowed from the works of other 'ulamâ.

One of the Majelis Tarjih's self-imposed tasks is to solve various problems relating to 'ibâdât *maḥḍah* (pure ritual) such as *ṣalat*, *zakât* and *ḥajj*. Unlike NU, whose members look to books of *fiqh*, Muhammadiyah's Majelis Tarjih produces technical guidance for members to practise their daily religion. This explains why from 1929 until 1953, Muhammadiyah issued *fatâwâ* on ritual matters only. Shortly afterwards, in 1954-55, it discussed the sources of Islam and several organisational activities.

Since 1968, however, the Majelis Tarjih has also dealt with contemporary problems, relating to worldly matters (*al-umûr al-dun-yâwiyyah*), such as bank interest, insurance, in-vitro fertilisation and inter-religious marriages. From the 374 pages of *Himpunan Putusan Majelis Tarjih* (The Collection of Decisions of the Majelis Tarjih), most *fatâwâ* deal with ritual issues. There are only 33 pages that discuss social interaction or *mu'âmalat* (human and social relationships). In addition, economic issues take up only 22 per cent of the book (Mulkhan, 1997: 102). Two examples of Muhammadiyah's *fatâwâ* on the modern phenomena follow. Muhammadiyah, after consulting with medical doctors, decided in 1980 that, in principal, organ transplantation was *mubâḥ* (permissible) but suggested that it should be done carefully (Muhammadiyah, 1993: 230). Muhammadiyah issued a further *fatwâ* in 1968 that stated that sterili-

sation (for the purpose of birth control) is forbidden (PP Muhammadiyah, nd: 309).

In 1964, Muhammadiyah decided that the picture of KH Ahmad Dahlan, the founder of Muhammadiyah, was *ḥarām* (forbidden) because his followers have such respect for him that they risked falling into *shirk* (polytheism). However, in 1968, Muhammadiyah revised its decision and the picture of KH Ahmad Dahlan was allowed to be put on the wall or on a flag (PP Muhammadiyah, nd: 281, 313). Although Muhammadiyah did not mention the argument to revise the previous *fatwâ*, it could be assumed that the effective cause or the *ratio legis* ('*illat*) was changed. The fear that followers of KH Ahmad Dahlan might fall into polytheism was considered unlikely in 1968. This relates to the norm in *uṣūl al-fiqh* that *al-ḥukm yadûr ma'â 'illatih wujûdân wa 'adâman* (a law is present whenever its ratio legis is present; and a law is absent in the absence of its ratio legis).

The possibility of revising *fatâwâ* provides some evidence that Indonesian '*ulamâ*' are less rigid in their interpretation of Islamic positioning than is the case elsewhere. Indonesian *fatâwâ* are adaptable to social change, particularly where previous rulings have proven no longer suitable to the situation.

The *fatwâ* portraits of people can also be seen as an example of how Muhammadiyah reacts to modern technology. Neither the Qur'ân nor the *Sunnah* covered this issue when they were revealed 15 centuries ago. Unlike several classical '*ulamâ*' who took the view that portraits of people are not permitted in Islam,⁴² Indonesian '*ulamâ*' permit and support this kind of modern technology, as long as it does not contain or lead to pornography and polytheism.

Conclusion

Through its slogan 'to return to the Qur'ân and the ḥadîth', Muhammadiyah has attempted to demonstrate that Islam is not an unbending, backward-looking religious system, but is inherently dynamic and capable of adjusting to modern society. Muhammadiyah takes the view that Islam should be interpreted in a modern way. Its encouragement for Indonesian Muslims to use their own opinions (not the opinions of others who lived several centuries ago) by directly analysing both the Qur'ân and the ḥadîth is its main contribution to modern Muslim life in Indonesia.

Muhammadiyah has not yet provided its own comprehensive method for achieving its stated ends of returning to, and reinterpreting, the Qur'ân and the ḥadîth. This means that Muhammadiyah has not yet reached the level of *mujtahid muḥlaq*, since creating *uṣûl al-fiqh* as a major condition for this category of *mujtahid* and this is not possible without a methodology. In fact, despite their claims, several of Muhammadiyah's *fatâwâ* were simply repetitions of opinions from *fiqh* books written several centuries ago, with no modification through *ijtihâd* or reinterpretation.

Returning to the Qur'ân and the ḥadîth is not an easy task. Although *fatâwâ* have been used as instruments to cope with modern developments, the methods used by Muhammadiyah are, despite its claims, generally the methods of 'ulamâ' of hundreds of years ago. A new method for analysing and returning to both primary sources is needed. It is argued that such method should constitute a fresh theoretical construct and represent a new holistic and contextual approach to legal language and legal interpretation.

In other words, Muhammadiyah needs to develop new interpretations of original sources while studying the interpretations of the past, both to learn from their insights and to understand them as products of their historical environment. Without a reformulated methodology, it is questionable whether the slogan to return to the Qur'ân and the ḥadîth is adequate to solve modern problems not expressly covered by the Qur'ân, the ḥadîth, and even classical books of *fiqh* and to bring Indonesian Muslims out of economic, political and legal crisis. The real challenge for Muhammadiyah is to use its modern Islamic legal reasoning (*ijtihâd*) as an effective instrument for the reconstitution of Indonesian society.

Endnotes

1. The word '*ulamâ*' in Arabic is plural and its singular form is '*alim*'. However, Indonesian Muslims use the word '*ulamâ*' as both singular and plural. The term *mufti*, that is, a scholar who delivers a *fatwâ*, although not unknown in Indonesia, is rarely used. In Umayyad times (41-132 AH), *mufti* served as legal consultants for *qâḍî* and issued *fatâwâ* at the request of provincial governors. By the late Umayyad period, *fatwâ*-giving had become an important instrument of political criticism. It is reported, for example, that Sa'îd bin al-Jubayr produced a *fatwâ* to criticise the tyrannical behaviour of al-Hajjâj (Mas'ud, Messick and Powers, 1996: 9).
A *mufti* was often a powerful figure. For example, in the mid-20th century, the Lebanese *mufti* was actually an important political leader. Some grand *mufti*, appointed in various states over the past century, have wielded considerable political influence through their official *fatâwâ*. In both political and scholarly communities, doctrinal struggles between opposed states or competing instructional centres have been played out in '*fatwâ wars*'. Although the theory of private *fatâwâ*-giving held that *fatâwâ* should be given for free, gifts and various forms of pious support were common. Official *muftis*, however, were salaried or received set fees from their questioners, and many grew wealthy in their position: Messick, 1995: 12.
Although most were private scholars, some *mufti* were appointed to official positions, notably in Mamluk Egypt and in the Ottoman Empire. Today, while some have been appointed as *mufti* of the state, others provide consensus as part of advisory councils of religious scholars or constitutional assemblies of scholars: Waardenburg, 1995: 151.
2. See Law No 7 of 1989, Chapter III, Section 49. In the Decision of the Minister of Religious Affairs—Decision No 154 of July 1991—the *Compilation of Islamic Laws (Kompilasi Hukum Islam)* is recommended as a 'guide and reference' for all government agencies, especially the Religious Courts, as well as society at large, in settling disputes in the fields of marriage, inheritance and *waqf*. Lubis. 1997.
3. The Qur'ân (16: 43) orders people to 'Question the people of remembrance [that is religious scholars], if you do not know'. One interpretation of this verse holds that Muslims are under an obligation to consult, and seek advice from, individuals known to possess knowledge and moral probity, that is, '*ulamâ*': al-Ṭabarî, 1954:108-9 and al-Sâbûnî, nd: 128.
4. al-Shâtibî: nd, vol 4, 224-5.
5. This has happened not only in the case of Indonesia. For example, in 1804, 'Uthmân ibn Fûdî declared *jihâd* in West Africa. In 1857, the '*ulamâ*' of Delhi issued a *fatwâ* of *jihâd* against British rule. In 1907, the '*ulamâ*' of Marakesh issued a *fatwâ* deposing the Sultan of Morocco: Dallal, 1995: 15-16. In 1964, the transfer of power to King Faisal was made possible by a *fatwâ* of the Saudi '*ulamâ*': Pistacori, 1980:128.
6. Muhammadiyah was founded in 1912, in Yogyakarta by KH Ahmad Dahlan. The name 'Muhammadiyah' indicates Islamic teaching brought about by the Prophet Muhammad. Dahlan's aim was to bring back the orthodox teachings of Islam in its original form. Hence, members of Muhammadiyah were expected to follow the ideal example of the Prophet. The organisation can be described variously as an Islamic movement, a modernist movement, a *da'wah* (religious propagation) movement and a socio-reli-

- gious movement. Since 1972 it has made a wide-ranging contribution to Indonesians, especially Indonesian Muslims, in the fields of religion, education, health, and the economy.
7. The slogan appeared in the 19th century when Muslim scholars around the world felt that the Muslim community had not practised its religion according to both primary sources and that this was the cause of the marginalisation of Muslim societies. This slogan was based on a ḥadīth from *Muwaḥḥaḍ li Imām Mālik* (Mālik, HN: 1,395): 'I left among you two weighty things. You will not be in error if you hold them: the book of Allah and my *Sunnah*'. It should be noted here that Mālik does not mention the *sanad* (chain) of this text. Surprisingly, if one looks at *Sunan al-Tirmidhī*, this text is not found. Instead, there are two texts which state that the Prophet left the book of Allah and the members of his household ('*itraṭi ahl baiṭi*') instead of his *Sunnah* (Tirmidhī, HN: 3,718 and 3,720). A similar message with a different text can be found in *Sunan Abī Dāwūd* (Dāwūd, HN: 1,628), *Musnad Aḥmad* (Aḥmad, HN: 10,681, 10,707, 10,779, 11,135) and *Ṣaḥīḥ Muslim* (Muslim, HN: 4,425).
 8. Generally it can be said that there are two groups of Indonesian Muslims: modernists—such as Muhammadiyah—and traditionalists such as Nahdlatul Ulama (NU). At the moment, NU is the biggest Islamic organisation claiming 30 million supporters. Traditionalists are mainly concerned with pure religion, *dīn* or '*ibādah*'. For them, Islam is mostly *fiqh* (Islamic jurisprudence). They recognise *taqlīd* (the obligation to follow the '*ulamā*'s opinion without reserve), and they reject the validity of *ijtihād* (independent legal reasoning).
 9. Commentaries on al-Āmidī include Ibn al-Hajīb (1908 edn) and Weiss, 1992.
 10. al-Gazālī, nd, vol4: 4.
 11. Dāwūd, HN: 3,119, Dārimī, HN: 168, Tirmidhī, HN: 1,249, Aḥmad, HN: 21,000 and see also al-Alwānī, 1993a: 2-13.
 12. Indonesian Muslims generally are followers of the Shāfi'ī school of Islamic law, although they recognise the existence of the other schools—Mālikī, Ḥanafī and Ḥanbalī. As for the Shāfi'ī school, it stands somewhere between the Ḥanafī school (rationalist) and the Mālikī school (traditionalist). It should be noted that some Muslims in Indonesia follow neither of these schools strictly, but pick and chose eclectically from amongst the opinions of the schools. Others go further by referring directly to the Qur'ān and the *Sunnah* and avoiding the opinions of the schools altogether. However, the followers of the Shāfi'ī school, which is represented by the Nahdlatul Ulama, are in the majority in Indonesia.
 13. Writings on the subject of Islamic legal theory generally followed one of two methods. The first is al-Shāfi'ī's method, or that of the *mutakallimūn*. This method involves the use of deduction in defining the principles of source methodology, in ascertaining the validity of those principles, and in refuting those whose opinions differ, without paying much attention to the issues and details which stem from the application of these principles. The second method is the Ḥanafī method, which entails defining the principles of the method from the details of legal issues already dealt with by their earliest predecessors. Therefore, one who studies *uṣūl al-fiqh* by this method will gather the details of issues on which the Ḥanafī's leaders have already given *fatāwā*, and then analyse them. Through his analysis he will

- decide the basis on which these *fatâwâ* were given (see al-Alwânî, 1993a: 71-2). It can be safely stated that Muhammadiyah can find justification via the second method.
14. This technical guidance has not yet been agreed to by all members of Majelis Tarjih. For example, according to Djamil, the Majelis Tarjih of West-Java province does not accept *ḥadīth ḥa'if*. Personal Interview, Jakarta, 25 December 1998; see also Tim PP Muhammadiyah Majelis Tarjih, 1997: 9-10.
 15. The majority of '*ulamâ*' define '*illat*' as the attribute of the original case which is constant, evident and bears a proper relationship to the law on the text. This effective cause may be clearly stated or suggested by indications in the text or it may be determined by consensus. '*Illat*' is the most important aspect of the requirements of analogy, see Kamali, 1991: 206-14.
 16. See the decision of Mukhtar in 1954-55 in PP Muhammadiyah, nd: 278.
 17. *Istiḥsân* is seen as a procedure to be adopted when the use of analogy produces an undesirable result. According to Weiss, 1998: 86, this is similar to the common law notion of equity: a principle of justice to which one could turn if the result in formal law would deliver injustice.
 18. *Istiḥsân* or *maslaḥah al-mursalah* as a method is supported by Ḥanafî, Ḥanbalî, and Mâlikî theorists. Meanwhile, the Shâfi'î and Zâhirî schools reject *maslaḥah al-mursalah*: see Hasan, 1971. Al-Gazâlî illustrates *maslaḥah al-mursalah* with this example: 'If unbelievers shield themselves with a group of Muslim captives, to attack this shield means killing innocent Muslims—a case which is not supported by textual evidence. If the Muslim attack is withheld, the unbelievers will advance and conquer the territory of Islam. In this case it is permissible to argue that even if Muslims do not attack, the lives of the Muslim captives are not safe. The unbelievers, once they conquer the territory, will root out all Muslims. If such is the case, then it is necessary to save the whole of the Muslim community rather than to save a part of it': al-Gazâlî, vol 1: 294-5.
 19. *Sadd al-dharî'ah* implies blocking the means to an expected end which is likely to materialise if the means towards it is not obstructed. Blocking the means must necessarily be understood to imply blocking means to evil, not to something good. Thus, illicit privacy between members of the opposite sex is unlawful because it constitutes a means to illegal sexual intercourse (*zinâ*) whether or not it actually leads to it. All sexual overtures which are expected to lead to *zinâ* are similarly forbidden by virtue of the likelihood that the conduct in question would lead to *zinâ*: Kamali, 1991: 310-11.
 20. These classifications were not originally made by Muhammadiyah. They are used by al-Dawalibî, 1959: 389. Both Madkur, 1974: 396 and al-Zuhailî, 1977: 484 mentioned Dawalibî when discussing this issue. However, al-Ḥakîm 1963: 576-9 criticises these categorisations and proposes only two classifications, namely, *al-ijtihâd al-'aqlî* and *al-ijtihâd al-shar'î*. It would seem that Muhammadiyah has used Dawalibî's classifications without mentioning the source and that they neglect Ḥakîm's criticism on this issue.
 21. Regarding *maqâṣid al-sharî'ah*, see al-Ayûbî, 1998; Mas'ûd, 1977: 221-4; and Hallâq, 1997: 168.
 22. Muhammadiyah does not quote the complete text and only mentions that this text is narrated by Muslim without giving the complete source. See PP Muhammadiyah, nd: 10-11.

23. Wahbah al-Zuhailî, an 'âlim who currently teaches at the University of Damascus, writes (al-Zuhailî, 1986: Vol 2, 1079-181) that a *mujtahid* is classified according to five levels. First, *al-mujtahid al-mustaqil* is the 'âlim who carries out *ijtihâd* by employing his own methodology and arriving at his own conclusions on Islamic law. Imâm Abû Ḥanîfah (d 150 AH/767 CE), Imâm Mâlik (d 179 AH/795 CE), Imâm Shâfi'î (d 204 AH/820 CE), and Imâm Aḥmad bin Ḥanbal (d 241 AH/855 CE) were claimed to have qualifications at the level of *al-mujtahid al-mustaqil*. Secondly, *al-mujtahid al-muḏaqq* *gair al-mustaqil* has qualifications to perform *ijtihâd*, but follows the methodology of the Imâm of his *madhhab*. It is possible that, although he follows the Imâm's methodology, the results of his *ijtihâd* will differ from that of his Imâm. However, the main point to stress is that he does not devise his own method. His position is lower in ranking than *al-mujtahid al-mustaqil*. Several well known names in this classification are: Abû Yûsuf (d 182 AH/798 CE), Zufar (d 158 AH/775 CE) from the Ḥanafî school, Ibn al-Qâsim (d 206 AH/823 CE) from the Mâlikî school, Muzânî (d 264 AH/878 CE) from the Shâfi'î school, Ibn Taimiyyah (d 728 AH/1328 CE) from the Ḥanbalî school and Ibn Hazm (d 456 AH/1065 CE) from the Zâhirî school. Thirdly, *al-mujtahid al-muqayyad* or *al-mujtahid al-takhrîjî* (another term is *mujtahid fî al-madhhab*) is a person who follows the school of the Imâm, but performs *ijtihâd* by analysing the elements or the arguments of the school in order to defend the position or explain the opinion of his *madhhab* about *fiqh*. It is possible for this person to perform *ijtihâd* in cases where the Imâm of the *madhhab* did not pronounce on the issue. Al-Tahâwî (d 321 AH/933 CE) of Ḥanafî's school, Ibn Abî Zaid of Mâlikî's school and Abî ishâq al-Shirâzî (d 476 AH/1093 CE) of Shâfi'î's school are claimed as possessing qualifications at this level of *mujtahid*. Fourthly, *mujtahid al-tarjîḥ* refers to a person who performs *ijtihâd* by choosing one from a number of opinions presented by *mujtahidûn*. The task of the *mujtahid al-tarjîḥ* is to examine and analyse which is the best among several opinions. The last category is *mujtahid al-futyâ* (*mujtahid al-fatwâ*), the person who issues a *fatwâ*.
24. The words *murajjih* and *tarjîḥ* are from the same root, *r-j-h*.
25. See 'Qâ'idah Majelis Tarjîḥ Muhammadiyah', based on the Decision No 74/SK-PP/I-A/8.C/1993, chapter 11, verse 1.
26. Djamil, Personal Interview, Jakarta, 25 December 1998.
27. Asymuni Abdurrahman, Personal Interview, Yogyakarta, 18 December 1999. Abdurrahman is a Professor at the State Institute of Islamic Studies (IAIN) Yogyakarta. Currently, he is one of the Chairmen of Muhammadiyah.
28. Muhammadiyah has quoted several *qawâ'id uṣûliyyah* in the case of in-vitro fertilisation. Unfortunately, Muhammadiyah did not distinguish between *qawâ'id uṣûliyyah* and *qawâ'id fiqhiyyah*, when it put several *qawâ'id fiqhiyyah* such as 'La Yunkar Tagayyur al-Aḥkâm bi tagayyur al-Aḥwal wa al-Amkinah wa al-Azmân, al-Mashaqqah Tajlîb al-Taysîr, and al-Darûrat Tubîḥ al-Mahzûrât under the title *qawâ'id uṣûliyyah*. See Muhammadiyah, 1993: 221-2.
29. Professor Dr Muardi Chatib, Personal Interview, Jakarta, 26 December 1999. He is a Professor in the field of *uṣûl al-fiqh* at the Faculty of Education in the State University of Islamic Studies (UIN) Jakarta.
30. Professor Dr Asymuni Abdurrahman, Personal Interview, Yogyakarta, 18 December 1998.

31. Unfortunately, I have been unable to confirm the full and exact spelling of her name. I heard that she was a member of Majelis Tarjih from Dr M Amin Abdullah when he gave a speech at Muhammadiyah office in Jakarta, 1 January 1999. Later, I contacted Dr Fathurrahman Djamil, via telephone, who also has been unable to confirm it.
32. When I discussed this matter with Chatib, he took the view that Amin Abdullah was only the administrator who managed the daily affairs of the Majelis Tarjih, and that the duty of issuing *fatâwâ* was still under the control of members who had qualifications in Islamic law: Professor Dr Muardi Chatib, Personal Interview, Jakarta, 26 December 1998.
33. Interestingly, both Chatib and Djamil reject the claim that the central board of Muhammadiyah has intervened to cancel the Majelis Tarjih's decision, whereas Abdurrahman told me that there was a *fatwâ* on public holidays in Islam that was cancelled by the central board because the leaders of Muhammadiyah were afraid of negative reaction from non-Muslims.
34. Dr Fathurrahman Djamil, Personal Interview, Jakarta, 25 December 1998.
35. The opinion of 'Abdullâh bin 'Abbâs regarding this issue can be found, for example, in al-Mawardî, nd, vol 1:491.
36. The *qunût* is a prayer which is said in the second *rakâ'at* of the morning (*Subh*) prayer after bowing (*rukû'*).
37. On one occasion, I heard Professor Asymuni Abdurrahman reply to this criticism: 'Around thirty years ago our scholars did not have all the primary books when they issued their legal opinions' (Pengajian Majelis Tarjih, January 1999). It is proposed here that Muhammadiyah should reconsider their old legal opinions since, as demonstrated in this article, citing from the secondary source poses the risk of falling into misquotation.
38. For example, Muhammadiyah cites two *ḥadīth* on what should be read when performing *rukû'* and *sujûd* from *Nail al-Awḥār*, vol 2. The first *ḥadīth* is that the Prophet read '*Subḥâna Rabbî al-'Aẓm*' while performing *rukû'*, and read '*Subḥâna Rabbî al-A'lâ*' when doing *sujûd*. Actually, the text can be found in Nasâ'î, HN: 1,036. It is unclear why Muhammadiyah does not cite directly to *Sunan al-Nasâ'î*, instead of citing *Nail al-Awḥār*. The second *ḥadīth*, narrated by Dâwud, Nasâ'î, Tirmidhî, Mâjah and Aḥmad, states that the Prophet, both at *sujûd* and *rukû'*, read '*Subbûh Quddûs Rabb al-Malâ'ikah wa al-Rûḥ*'. While Muhammadiyah cites from *Nail al-Awḥār*, the text can be found in Muslim, HN: 752, Dâwud, HN: 738, and Nasâ'î, HN: 1038. It should be noted that, instead of choosing the stronger text, Muhammadiyah accepts both different texts.
39. After being the target of criticism on this issue, Muhammadiyah has reviewed this *fatwâ*. The result is, by quoting *Subul al-Salâm* and *al-Muḥallâ li Ibn Ḥazm*—again, both are not included in *kutub al-tis'ah*—Muhammadiyah still believes that the word '*wa barakâtuh*' should be added: PP Muhammadiyah, nd: 364-5. It cites the explanation from the author of *Subul al-Salâm*, who refers to *Sunan Ibn Mâjah*. Unfortunately, Muhammadiyah does not look directly to *Sunan Ibn Mâjah*. There is a controversy as to whether Ibn Mâjah narrates the word '*wa barakâtuh*' or not: see al-'Aṭṭar, 1995: HN: 914 and 916. If there is still doubt as to which is the correct text, one might look at other books of *ḥadīth* regarding this issue. Al-Tirmidhî (Tirmidhî, book *al-ṣalât*. HN: 272), Abû Dâwud (Dâwud, book *al-ṣalat*, HN: 845), Aḥmad, HN: 3,516 (also HN: 3,519, 3,549, 3,656, 3,694, 3,775, 3,849, 3,958, 4,020, and

4,055), and al-Nasâ'î, HN: 1,302 (also HN: 1,130, 1,303, 1,305, 1,307, and 1,308), narrate the text without the word '*wa barakâtuh*'. Other secondary books of ḥadīth such as al-Nawâwî, 1993: 47; al-Haysamî, HN: 2,797; al-Shâfi'î, HN: 280; and al-Shawkânî (1983): vol 2: book *al-Khurûj min al-Ṣalât bi al-Salâm*, narrate similar texts, again, without '*wa barakâtuh*'. It seems odd that Muhammadiyah neglects those books that consist of information from several narrators, from many different *sanad* of the text. As well as citing from secondary sources regarding this issue, however, Muhammadiyah fails to demonstrate its method for solving the problem of contradictory evidence. Of course, Muhammadiyah has a right to choose which is the stronger, unfortunately, however, it has chosen evidence from two secondary books, neglecting primary and other secondary sources.

40. The text is quoted from *Taisîr al-Wuṣûl*.

41. The text is also found in al-Dârimî, HN: 1,287; and Aḥmad, HN: 8,598.

42. See entry: 'Lukisan dan Foto' in *Ensiklopedi Hukum Islam*, 1993, vol 3..

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