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Issuing Fatwas in the Name of the State: Reshaping Co-optation through Religious Decrees in Singapore

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Submitted for the degree of PhD in Politics and International Studies

University of Warwick

United Kingdom

September 2018

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Acknowledgement

Al-ḥamdulillāh thumma al-ḥamdulillāh.

This thesis represents my effort to make sense of the relationship between religion and politics in the modern state. It is by far not a solo effort, but required an assemblage of massive intellectual, financial, and moral support from many groups and individuals.

First and foremost, I have to thank my brilliant and immensely hardworking supervisors, Juanita Elias and Lena Rethel, without whom this thesis is not possible. They have taken the time and effort to patiently and skilfully guide me to achieve my goals.

This research was made possible with the generous support of Majlis Ugama Islam Singapura (Islamic Council of Singapore or MUIS) which have funded my studies and provided me with access to important materials in this thesis. For this, I have to thank the MUIS scholarship committee, the current Mufti of Singapore Ustaz Fatris Bakaram and the former mufti Ustaz Syed Isa Semait for their helpful insights, Ustaz Nazirudin Nasir for his substantial personal and professional help, and members of the Office of the Mufti, including Ustaz Irwan Hadi, Ustaz Izal Mustafa, and Ustazah Anisah Salwana. I am also grateful to the MUIS Academy, especially Dr Albakri Ahmad, Ustazah Hanna Taufiq Siraj, Ustazah Faeza Abdurazak, along with many others in the department for their assistance.

I am also very grateful to those who have helped me before and during this long and winding road. They are too many to be named here: Joseph Liow, Mohamed Nawab Mohamed Osman, and Syed Mohd Khairudin Aljunied for making this journey possible. Hafiz Hanif for helping me find my way around. Faisal Karim, Geoffrey Lugano, Te-Anne Robles, Matt Kranke, Daniela Richterova, Tereza Jermanova, Ng Wai Hong, Seb Rumsby, and many others for their support. I also appreciate the help of the anonymous interviewees (whom I cannot name here). Not forgetting the numerous critical feedbacks and comments I received from the tireless Nyi Nyi Kyaw, Walid J. Abdullah, Tuty Raihanah Mostarom, Hanisah Abdullah, Dominik Müller, and Kirsten Steiner. And to many others whom I neglect to include here, your support is truly appreciated.

I also have to thank my family; my in-laws for their patience being away from their grandchildren, my siblings especially my elder brothers Ahmad Hilmy and Zulkhairi for supporting me during the application process, and my sister Nadirah for the proof-reading. And a great big thank you to my parents, Siti Zaleha and Pasuni Maulan for everything they have done; nothing I do will ever repay my debts to them.

Finally to my wonderful wife, Farhanah, and young Amr, Nuha, and Nadra; thank you for bearing it with me.

Despite the generous help and assistance from the people that made this thesis possible, as its author I bear full responsibility for its shortcomings.

Declaration of Authenticity

I declare that this thesis is entirely the result of original research that I have carried out in person. This thesis does not contain material previously published or written by another person, except where due reference has been made. It also does not contain any material that has been accepted for the award of any other degree or diploma in any university. Some materials from Chapters 2 and 4 were reproduced in a journal article titled ‘Negotiating Statist Islam: Fatwa and State Policy in Singapore,’ published in the *Journal of Current Southeast Asian Affairs* in May 2018.

Preface

During the development of this thesis, several incarnations of its chapters were presented in workshops and conferences at the London School of Economics and the University of Oxford between 2015 and 2017. Some findings of this thesis were also published as a journal article which I mentioned above.

At the time the research was conducted, my sponsor Majlis Ugama Islam Singapura (Islamic Council of Singapore or MUIS) had begun a multi-year, self-reflective project on the development and management of fatwas in Singapore. I was privileged to be closely associated with this project during my fieldwork; I was commissioned by the Office of the Mufti to translate their recent book from Malay to English. Titled *Fatwas of Singapore: Science, Medicine, and Health*, the book showcased the jurisprudential reasoning of state-sanctioned Singapore fatwas amidst modern medical developments.

I must also note here although MUIS gave significant support for my doctoral research, in no way do my views reflect its official position.

Abstract

My thesis examines state-religious relationship in secular authoritarian Singapore by analysing fatwas (Islamic religious decrees). In particular, I focus on the role of ‘official’ fatwas in negotiating against state and state-linked interests.

The prevailing narrative concerning authoritarian Southeast Asian states like Singapore is that they closely regulate realms of contestation in order to preserve state dominance. As the state co-opts potential challengers (including religious ones) within its fold, religious bureaucracies are reduced to instrumentalised nation-building projects.

Using this body of literature as a starting point, I argue that these authoritarian measures lead to several unintended consequences for the state. The co-optation of religious institutions – through the establishment of a religious bureaucracy – results in fatwas being given sufficient legal-bureaucratic authority to affect state decisions. As the role of the religious bureaucracy is broadened to oversee more religious matters, it also results in the expansion of fatwas’ authority in the legal system. These developments entrench the role of fatwas in state and legal structures, an ironic outcome for the self-declared secular state.

My argument is developed in case studies of Singapore fatwas in three areas: (1) state policies, (2) court judgements, and (3) a recent legal enactment on religious teachers. These cases test the extent of fatwas’ legal-bureaucratic capacity to negotiate state demands, and also reveal the significance of their traditional-societal role.

My research draws upon confidential state fatwa minutes of meetings, interviews with muftis, as well as archival research of key documents. Through the analysis of fatwas’ function in relation to state bureaucracy and the legal system, my research contributes unique insights into the negotiation of religious demands in a modern state. It also expands the application of policy feedback – which discusses the impact of policies on politics – to examine an understudied constituency of state bureaucracy: religious institutions. The ultimate outcome of this state-religious negotiation is conceptualised in what I refer to as Statist Islam.

Abbreviations

| | |
|-------|--|
| AML | Administration of Muslim Law |
| AMLA | Administration of Muslim Law Act |
| ARS | Asatizah Recognition Scheme |
| CPF | Central Provident Fund |
| HDB | Housing and Development Board |
| HOTA | Human Organ Transplant Act |
| IECP | Islamic Educational Centres and Providers |
| IS | Islamic State |
| ISIL | Islamic State of Iraq and the Levant |
| ISIS | Islamic State of Iraq and Syria |
| JAKIM | Jabatan Kemajuan Islam Malaysia (Department of Islamic Development Malaysia) |
| LGBT | Lesbian, Gay, Bisexual, and Transgender |
| MKAC | Muslim Kidney Action Association |
| MKI | Majlis Kebangsaan Hal Ehwal Agama Islam (National Council for Islamic Affairs) |
| MUI | Majelis Ulama Indonesia (Indonesian Ulama Council) |
| MUIS | Majlis Ugama Islam Singapura (Islamic Council of Singapore) |
| NGO | Non-Governmental Organisation |
| NU | Nahdlatul Ulama (Ulama's Revival) |
| OOM | Office of the Mufti |
| PAS | Parti Islam Se-Malaysia (Pan-Malaysian Islamic Party) |
| POSB | Post Office Savings Bank |
| RRG | Religious Rehabilitation Group |
| US | United States |

Transliteration Table

To ensure consistency throughout the thesis, transliteration of Arabic words into the Roman script is adapted from the American Library Association – Library of Congress format. Note that this only applies to Arabic words that are not recognised in the English language. Recognised loanwords – such as ‘fatwa’ and ‘madrasah’ – are spelt and pluralised according to their English language usage.

| Romanised | Arabic | Romanised | Arabic |
|------------|--------|-----------|--------|
| <i>ṭ</i> | ط | ‘ | ء |
| <i>ẓ</i> | ظ | <i>ā</i> | ا |
| ‘ | ع | <i>b</i> | ب |
| <i>gh</i> | غ | <i>t</i> | ت |
| <i>f</i> | ف | <i>th</i> | ث |
| <i>q</i> | ق | <i>j</i> | ج |
| <i>k</i> | ك | <i>ḥ</i> | ح |
| <i>l</i> | ل | <i>kh</i> | خ |
| <i>m</i> | م | <i>d</i> | د |
| <i>n</i> | ن | <i>dh</i> | ذ |
| <i>h</i> | ه | <i>r</i> | ر |
| <i>w/ū</i> | و | <i>z</i> | ز |
| ‘ | ء | <i>s</i> | س |
| <i>y/ī</i> | ي | <i>sh</i> | ش |
| <i>t/h</i> | ة | <i>ṣ</i> | ص |
| <i>al-</i> | ال | <i>ḍ</i> | ض |
| <i>ā</i> | آ/أ | <i>ṭ</i> | ط |

Table 1 Transliteration of Romanised Arabic letters

Chapter 1: Introduction

1 Issuing Fatwas in the Name of the State

In September 2017, a Singaporean man appeared in a video produced by the radical militant group Islamic State in Iraq and the Levant (ISIS). The video showed the man in military fatigue loading ammunition shells and encouraging viewers to join armed fighters in East Asia, the Middle East, and Africa.¹ He then fired an artillery gun before directing his message to Great Britain's Prince Harry who was scheduled to visit Singapore. The man said that instead of going to Singapore to "tell sad stories to gain sympathy about London terror [attacks]", the prince should fight ISIS so "we can send you and your Apaches to hellfire."²

Militant propaganda videos are nothing new. This one, however, is different because for the first time it featured a Singaporean. The video and its reporting in the media prompted several responses from the state and religious authorities in Singapore. The main Islamic religious institution in Singapore known as Majlis Ugama Islam Singapura (Islamic Council of Singapore or MUIS) promptly condemned the man's action.³ The Mufti of Singapore – the highest Islamic religious official in the country – also weighed in, warning that such videos "misinterpret and manipulate the teachings of Islam" and "influence and convert those who may not be able to discern the truth from the untruths."⁴ He told the Singapore Muslim community to "stay vigilant" and report to the authorities those who show signs of being radicalised.⁵

The role of the mufti in this scenario should not be understated. As the head of a body that provides official Islamic religious instruction in the country, a mufti possesses the authority to inform and shape religious praxis through religious edicts known as fatwas. One might imagine that this traditional form of religious instruction – issuing fatwas – had become obsolete, especially in a modern state like Singapore that professes secularism.⁶ However the relevance of fatwas persists; in Singapore and

¹ *Inside the Khilafah 4*, vol. 4, Inside the Khilafah (Al-Hayat Media Center, n.d.), accessed 19 February 2018.

² *Inside the Khilafah 4*.

³ Nur Asyiqin Mohamad Salleh, 'Muis Condemns ISIS Video Featuring Singaporean', *The Straits Times*, 28 September 2017, <http://www.straitstimes.com/singapore/muis-condemns-isis-video-featuring-singaporean>.

⁴ Salleh.

⁵ Salleh.

⁶ The declaration of Singapore's Inter-Religious Harmony Circle explicitly "recognise[s] the secular nature of our State." See 'Establishment of a Permanent Landscape Symbolising Religious Harmony

many other countries, fatwas are not merely Islamic religious instructions, they are also embedded in the country's legal statute that guarantees their modern relevance and authority.

Despite the link of these religious institutions to the state, their relationship is not always mutually reinforcing. Differences occur even in Singapore where the state tightly controls platforms of potential political contestation.⁷ In order to maintain authoritarian endurance, the state closely regulates domains such as labour movements, the media, academia, and even religion. As a way to manage religious affairs, Islamic religious elites and institutions – including the fatwa-issuing body – became co-opted into the state-sanctioned religious bureaucracy.

This then begs the question: how do co-opted Islamic religious elites and institutions function in an authoritarian secular state? What role do they play in negotiating religious demands, especially those that can be perceived as going against state interests?

My research is principally concerned with the politics of contestation, and the role co-opted religious institutions plays in it. Focusing on a facet of the Islamic religious bureaucracy in Singapore, I examine how co-optation created new modes of contestations against the state. As religious elites are tied to the state through legal-bureaucratic links, they also gain some forms of authority that enables them to shape state decisions. This then not only affects how Islamic religious praxis is shaped, but

in Singapore at Stamford Green, Fort Canning Park', Singapore Government Media Release (National Archives Singapore, 19 July 2008), <http://www.nas.gov.sg/archivesonline/speeches/view-html?filename=20080719997.htm>; however others have described Singapore's brand of secularism to be 'quasi-secular'. See Li-ann Thio, 'Control, Co-Optation and Co-Operation: Managing Religious Harmony in Singapore's Multi-Ethnic, Quasi-Secular State', *Hastings Const. LQ* 33 (2005): 197–254; See also Jaclyn L Neo, 'Secularism Without Liberalism: Religious Freedom and Secularism in a Non-Liberal State', *Michigan State Law Review*, no. 333 (2017): 333–70.

⁷ William Case, 'New Uncertainties for an Old Pseudo-Democracy: The Case of Malaysia', *Comparative Politics* 37, no. 1 (October 2004): 83–104, <https://doi.org/10.2307/4150125>; Kikue Hamayotsu, 'Islam and Nation Building in Southeast Asia: Malaysia and Indonesia in Comparative Perspective', *Pacific Affairs* 75, no. 3 (2002): 353, <https://doi.org/10.2307/4127290>; Robert Hefner, *Remaking Muslim Politics: Pluralism, Contestation, Democratization* (Princeton N.J.: Princeton University Press, 2005); Garry Rodan and Caroline Hughes, *The Politics of Accountability in Southeast Asia: The Dominance of Moral Ideologies*, First Edition, Oxford Studies in Democratization (Oxford, United Kingdom; New York, NY: Oxford University Press, 2014); Bryan S. Turner, 'Soft Authoritarianism, Social Diversity and Legal Pluralism: The Case of Singapore', in *The Sociology of Shari'a: Case Studies from around the World*, ed. Adam Possamai, James T Richardson, and Bryan S. Turner (Cham: Springer International Publishing, 2015), 69–81, https://doi.org/10.1007/978-3-319-09605-6_5; Meredith Weiss, 'Of Inequality and Irritation: New Agendas and Activism in Malaysia and Singapore', *Democratization* 21, no. 5 (29 July 2014): 867–87, <https://doi.org/10.1080/13510347.2014.910764>.

also increases the legal-bureaucratic relevance of fatwas or religious decrees within the structure of a secular authoritarian state.

This introductory chapter outlines the aims and objectives of the thesis and is structured as follows. After this opening remarks, Section 2 will outline the research puzzle and objective of this thesis which concerns fatwa-making in a secular state. Section 3 explains the importance of fatwas in analysing state-religious relations and the peculiarities of the secular authoritarian Singapore state that makes it the focus of this thesis. This is followed by Section 4 which provides a brief overview of the analytical framework and key concepts I advance in this thesis. Building on the concept of autonomous state whose decision-making is self-serving and not particularly dependent on other interests, I argue that its decisions can be influenced through policy feedback from – in this case – its religious constituents. This consequently shapes a localised, amalgamated form of religious praxis to which I refer throughout this thesis as Statist Islam. Section 5 will outline the methodology I employ in this thesis as well as the selection of fatwas in the case studies. It will also highlight the main contributions of this thesis, among them the expansion of the policy feedback concept to examine the role of the religious bureaucracy in the modern state, and the development of Statist Islam as an original concept to explain the amalgamation of statist and religious interests, instead of a term denoting state-sponsored Islam or national Islam.⁸ The concluding part will provide the structure of the thesis and a detailed chapter outline.

Before moving on, I wish to note that this thesis uses the term ‘religious elites’ to refer to ulama or Islamic religious scholars, regardless of their affiliation to the state or otherwise.⁹ On occasions, ‘religious elites’ may also refer to non-ulama figures such as Islamist political party members, although these are infrequent and the context of the usage should clarify its referent. Meanwhile the term ‘religious bureaucrats’ is used to refer to a more specific group of ulama who are bureaucratically tied to the

⁸ Maznah Mohamad, ‘Making Majority, Undoing Family: Law, Religion and the Islamization of the State in Malaysia’, *Economy and Society* 39, no. 3 (2010): 360–84; J Saravanamuttu, ‘Encounters of Muslim Politics in Malaysia’, in *Islam and Politics in Southeast Asia*, ed. J Saravanamuttu (London; New York: Routledge, 2010), 85–105; Farid F Saenong, ‘Statist Islam and Folk Islam Ethnohistory and Muslim Practices in Bantaeng’, *Journal of Islamic Civilization in Southeast Asia* 4, no. 2 (2015): 76–99.

⁹ The concept of Islamism uses ‘ulama’ to refer to state-linked Islamic religious scholars. This will be explained in Chapter 2.

state. Therefore when discussing the ulama who are linked to the state religious bureaucracy, the terms ‘religious elites’ and ‘religious bureaucrats’ can be used interchangeably. ‘Religious actors’ is a wider term to denote both elite and non-elite religious individuals and groups.

I also wish to note that this thesis defines fatwas as answers to religious questions. I will also use several other expressions interchangeably with fatwas, namely ‘religious decrees’, ‘religious edicts’ and ‘religious instructions’. Unless otherwise stated, they serve as synonyms to fatwas.

2 Research Puzzle

My thesis looks at how religious decrees – known as fatwas – issued by state-linked religious institutions can resist, negotiate, and inform the decisions of the Singapore state. These religious institutions are not only recognised by the state but are also bureaucratically co-opted to become part of the state bureaucracy. This co-optation amplifies the role of these religious institutions as it weaves religious demands with state resources and creates a site where state-religious negotiation takes place. I must note here that in using the term “co-opt”, I share Abdullah’s caveat that it does not denote a negative or positive judgement on the nature of state-religious relationships.¹⁰ Rather it should be taken as a neutral term that describes the practical (albeit asymmetric) engagement of the state with co-opted actors.

In Singapore, the co-opted Islamic religious bureaucracy plays a significant role in managing religious affairs. It is made up of several religious institutions including the fatwa-issuing body which instructs Muslim religious life. In addition to directing the social life of Muslims, the fatwa body is also placed at an advantageous position to affect state decisions. But how exactly do these state-linked religious institutions affect state decisions? And what are the consequences of this relationship?

These lines of inquiry form my research puzzle, which is twofold:

¹⁰ Walid Jumblatt Abdullah, ‘Religious Representation in Secular Singapore: A Case Study of MUIS and Pergas’, *Asian Survey* 53, no. 6 (December 2013): 1182–1204, <https://doi.org/10.1525/as.2013.53.6.1182>.

Firstly, I question how state-linked religious bodies function within an authoritarian, self-declared secular state like Singapore. In particular, what kind of autonomy do they exercise in such a setting? And how is this autonomy asserted?

State-linked religious institutions have often been described as “co-opted” actors,¹¹ a result of being bureaucratised under state hierarchy. Numerous observations on state-sanctioned religious bodies characterise them as instruments of nation-building projects.¹² Recent developments within this literature qualify the role of the state in national religious projects and identify the function and agency of religious bureaucrats.¹³ My research builds on these observations by examining how heavy-handed state policies that seek to regulate religious affairs also create new opportunities for state-linked fatwas to assert religious “sectoral”¹⁴ demands against the state.

Fatwas maintain a strong claim to religious tradition and can be issued by both independent ulama (religious scholars) and state-linked ones. Recent technological development allows fatwas to cross borders and reach new audiences with ease, as the internet facilitates a phenomenon where Muslims can pick and choose online fatwas that reflect their personal opinion.¹⁵ The evolving role of fatwas in instructing Muslim

¹¹ M. B. Hooker, ‘Syariah Law in Contemporary Indonesia and Malaysia’, *Reform Journal* 10, no. 80 (2002): 47–51; Abdullah, ‘Religious Representation in Secular Singapore’; Bilge Yabancı and Dane Taleski, ‘Co-Opting Religion: How Ruling Populists in Turkey and Macedonia Sacralise the Majority’, *Religion, State and Society*, 11 December 2017, 1–22, <https://doi.org/10.1080/09637494.2017.1411088>; Thio, ‘Control, Co-Optation and Co-Operation: Managing Religious Harmony in Singapore’s Multi-Ethnic, Quasi-Secular State’.

¹² Hamayotsu, ‘Islam and Nation Building in Southeast Asia’; Joseph Liow, *Piety and Politics: Islamism in Contemporary Malaysia* (Oxford; New York: Oxford University Press, 2009); Kerstin Steiner, ‘Governing Islam: The State, the Administration of Muslim Law Act (AMLA) and Islam in Singapore’, *Australian Journal of Asian Law* 16, no. 1 (2015): 1–16; Kerstin Steiner, ‘Madrasah in Singapore: Tradition and Modernity in Religious Education’, *Intellectual Discourse*, no. 19 (2011): 41–70; Hooker, ‘Syariah Law in Contemporary Indonesia and Malaysia’.

¹³ Maznah Mohamad, ‘Legal-Bureaucratic Islam in Malaysia: Homogenizing and Ringfencing the Muslim Subject’, in *Encountering Islam: The Politics of Religious Identities in Southeast Asia*, ed. Yew-Foong Hui (Singapore: Institute of Southeast Asian Studies, 2013), 103–32; Maznah Mohamad, ‘The Ascendance of Bureaucratic Islam and the Secularization of the Sharia in Malaysia’, *Pacific Affairs* 83, no. 3 (September 2010): 505–24; Abdullah, ‘Religious Representation in Secular Singapore’; Tuty Raihanah Mostarom, ‘The Singapore Ulama: Religious Agency in the Context of a Strong State’, *Asian Journal of Social Science* 42, no. 5 (1 January 2014): 561–83, <https://doi.org/10.1163/15685314-04205005>.

¹⁴ Thomas Pierret, *Religion and State in Syria: The Sunni Ulama from Coup to Revolution* (Cambridge: Cambridge University Press, 2012), 163–64, <https://doi.org/10.1017/CBO9781139207720>.

¹⁵ Nadirsyah Hosen, ‘Online Fatwa in Indonesia: From Fatwa Shopping to Googling a Kiai’, in *Expressing Islam: Religious Life and Politics in Indonesia*, ed. G. Fealy and S. White (Singapore: Institute of Southeast Asian Studies, 2008), 159–73; Saminaz Zaman, ‘From Imam to Cyber-Mufti:

religious life deserves closer scrutiny – not only beyond state structures, but also *within* them.

This brings me to my second research objective: what does the co-optation of Islamic religious institutions in a secular setting mean for the state-religious relationship? In other words, my thesis examines the capacity of state-linked fatwas in affecting not only religious praxis, but its attendant consequences on state-religious dynamic. As the configuration of religious bureaucracy within the state creates new avenues of resistance, negotiation, and contestation, I investigate how this relationship results in the amalgamation of interests and demands, and a unique brand of Islamic religious praxis in a country, which I refer to as Statist Islam.

Here, I would like to briefly mention two sets of literature that form the starting point of my examination of state-sanctioned religious institutions. They are: (1) Islamism which analyses the agency and demands of religious elites vis-à-vis the state, and; (2) state co-optation of religion, a loosely-linked set of writings that concerns the relationship between the state and religious bureaucrats.

The first body of literature, Islamism, seeks to explain how and why religious intervention in politics occurs.¹⁶ Islamism discusses the interaction of Islam and modern politics, and is underpinned by the culturalist view that pits religious movements against state power.¹⁷ It shows religious elites' engagement in politics through a wide range of actions, from establishing welfare services, to taking part in democratic elections, to resorting to militancy, all with the broad objective of establishing an Islamic state or a form of it.¹⁸ Although it is a literature of broad

Consuming Identity in Muslim America', *The Muslim World* 98, no. 4 (October 2008): 465–74, <https://doi.org/10.1111/j.1478-1913.2008.00240.x>.

¹⁶ Richard C. Martin and Abbas Barzegar, eds., *Islamism: Contested Perspectives on Political Islam* (Stanford, Calif: Stanford University Press, 2010); Shahram Akbarzadeh, ed., *Routledge Handbook of Political Islam* (Abingdon, Oxon ; N.Y., N.Y: Routledge, 2012); Olivier Roy, 'The New Islamists', *Foreign Policy*, 16 April 2012, <http://foreignpolicy.com/2012/04/16/the-new-islamists/>; Olivier Roy and Amel Boubekeur, eds., *Whatever Happened to the Islamists? Salafis, Heavy Metal Muslims and the Lure of Consumerist Islam* (London: Hurst and Company, 2012); Frédéric Volpi, *Political Islam Observed* (London: Hurst and Company, 2010).

¹⁷ Nazih Ayubi, *Political Islam: Religion and Politics in the Arab World* (Routledge, 2003).

¹⁸ Olivier Roy, *The failure of political Islam* (London: I.B. Tauris, 1994); Olivier Roy, *Globalized Islam: The Search for a New Ummah* (Columbia University Press, 2006); Roy, 'The New Islamists'; Gilles. Kepel, *Jihad: the trail of political Islam* (London; New York: I.B. Tauris, 2006); David Belt, 'Islamism in Popular Western Discourse', *Policy Perspectives*, 2009, 1–20; Graham E Fuller, *The Future of Political Islam*. (New York: Palgrave Macmillan, 2006); Lisa Anderson, 'Fulfilling Prophecies: State Policy and Islamist Radicalism', in *Political Islam: Revolution, Radicalism, or Reform?*, ed. John L. Esposito (Boulder, Colo: Lynne Rienner Publishers, 1997), 17–31; Zulkifly

relevance to this thesis because it assesses the agency of religious elites and how their religious demands are advanced against the state, it is nonetheless a body of scholarship that has been predominantly concerned with Middle-Eastern empirical cases, and in particular Islamic political parties.¹⁹

Islamism is complemented by Post-Islamism, a perspective that was introduced to explain an emergent form of individualised religiosity in the Muslim society, a supposedly contemporary trend in which religious objectives have shifted from state-centric to society-centric goals.²⁰ This moves the subject of empirical cases from mass-based religious movements to smaller groups of individuals who assert various forms of religiosity, and can incidentally affect political outcomes.²¹ And yet, despite the expansion of Islamism to Post-Islamism to explain these new forms of religious activism, its culturalist origin does not sufficiently accommodate the function of religious institutions that are co-opted by the state, nor explain the subsequent reconfiguration of state structures that expressly restricts, and inadvertently empowers, these religious co-optees.

This brings me to a second set of literature concerning religious co-optation by the state, which largely explores the asymmetrical relationship between the state and religious institutions in Southeast Asia. In these writings, the co-optation of religious elites by the modern state is viewed through an instrumentalist lens to examine – to some extent – the functions and dynamics of state-linked religious bureaucracies.²² A

Abdul Malek, 'From Cairo to Kuala Lumpur : The Influence of the Egyptian Muslim Brotherhood on the Muslim Youth Movement of Malaysia (ABIM)' (Georgetown University, 2011).

¹⁹ Roy, *The failure of political Islam*; Roy, *Globalized Islam: The Search for a New Ummah*; Kepel, *Jihad*; Anderson, 'Fulfilling Prophecies: State Policy and Islamist Radicalism'.

²⁰ Asef Bayat, 'The Coming of a Post-Islamist Society', *Critique Critical Middle East Studies*, no. 9 (1996): 43–52; Asef Bayat, *Making Islam Democratic: Social Movements and the Post-Islamist Turn*, Stanford Studies in Middle Eastern and Islamic Societies and Cultures (Stanford, Calif: Stanford University Press, 2007); Asef Bayat, ed., *Post-Islamism: The Changing Faces of Political Islam* (New York, NY: Oxford University Press, 2013).

²¹ Roy and Boubekeur, *Whatever Happened to the Islamists? Salafis, Heavy Metal Muslims and the Lure of Consumerist Islam*.

²² Abdullah, 'Religious Representation in Secular Singapore'; Walid Jumblatt Abdullah, 'Managing Minorities in Competitive Authoritarian States: Multiracialism and the Hijab Issue in Singapore', *Indonesia and the Malay World* 44, no. 129 (3 May 2016): 211–28, <https://doi.org/10.1080/13639811.2015.1129818>; Liow, *Piety and Politics: Islamism in Contemporary Malaysia*; Mohamad, 'The Ascendancy of Bureaucratic Islam and the Secularization of the Sharia in Malaysia'; Mohamad, 'Legal-Bureaucratic Islam in Malaysia: Homogenizing and Ringfencing the Muslim Subject'; Thio, 'Control, Co-Optation and Co-Operation: Managing Religious Harmony in Singapore's Multi-Ethnic, Quasi-Secular State'; Syed Muhd Khairudin Aljunied, 'The Ulama in Singapore and Their Contemporary Challenges', *PERGAS Working Paper*, no. 1 (2015): 1–7.

common narrative proposed by this literature is that the co-optation of religious institutions provides a way for colonial and post-colonial states to domesticate religion for nation-building efforts.²³ This set of writings also corresponds with the theme ‘bureaucratisation of Islam’, a largely anthropological account that examines the consequences of religious bureaucratisation on the society.²⁴ Focusing on the Southeast Asian region, bureaucratisation of Islam provides a more balanced assessment in analysing the effects of state co-optation of religious bodies and symbols which evokes a range of responses from religious actors in the society, who chose to accommodate or resist state penetration in various ways. Yet as a collection of literature that addresses the relationship between the state and religious institutions, limited attention was given to the agency and function of religious bureaucrats. The causes and consequences of religious co-optation, and more notably the role of religious bureaucrats in state-sanctioned religious projects, remain an under-researched area.

The objective of my research is therefore to provide a more nuanced understanding of the role of state-linked religious institutions: that it is precisely because of state co-optation that the relationship between the state and religion becomes ostensible. Combining these two bodies of literature (as I will discuss in detail in Chapter 2) accommodates the various instrumentalist and culturalist perspectives of state-religious dynamics. Briefly put, I will demonstrate how both perspectives contribute to a synthesis between the culturalist slant of Islamism and the instrumentalist perspective of religious co-optation. My research acknowledges the state’s instrumentalist motivation for co-opting religious elites, at the same time recognises the co-optees’ bureaucratic advantage as a way to advance their supposed culturalist intent.

²³ Hamayotsu, ‘Islam and Nation Building in Southeast Asia’; Liow, *Piety and Politics: Islamism in Contemporary Malaysia*; Steiner, ‘Governing Islam: The State, the Administration of Muslim Law Act (AMLA) and Islam in Singapore’; Steiner, ‘Madrasah in Singapore: Tradition and Modernity in Religious Education’; Hooker, ‘Syariah Law in Contemporary Indonesia and Malaysia’.

²⁴ Dominik Müller, ‘Sharia Law and the Politics of “Faith Control” in Brunei Darussalam: Dynamics of Socio-Legal Change in a Southeast Asian Sultanate’, *International Quarterly for Asian Studies* 46, no. 3/4 (2015): 313–45; Dominik Müller, ‘Hybrid Pathways to Orthodoxy in Brunei Darussalam: Bureaucratised Exorcism, Scientisation and the Mainstreaming of Deviant-Declared Practices’, *Journal of Current Southeast Asian Affairs* 37, no. 1 (2018): 141–83; Dominik Müller and Kerstin Steiner, ‘The Bureaucratisation of Islam in Southeast Asia: Transdisciplinary Perspectives’, *Journal of Current Southeast Asian Affairs* 37, no. 1 (2018): 3–26; Patricia Sloane-White, *Corporate Islam: Sharia and the Modern Workplace* (Cambridge: Cambridge University Press, 2017), <https://doi.org/10.1017/9781316875605>.

Bringing together these two bodies of literature also speaks to constructivist notions of unintended consequences,²⁵ as formal co-optation creates unforeseen circumstances that change the capacity of both the state and the religious institution. I argue that the link established through state co-optation enables religious elites to broker their religious demands and expand their religious influence through legal-bureaucratic channels. The legally- and bureaucratically-recognised fatwas become a useful mode for religious elites to assert their authority through a form of policy feedback, i.e. by negotiating demands that consequently shape state decisions. I contend that this relationship also changes the role that religion plays in the state as religious relevance grew within state structures. As a result, a unique projection of state-religious interests manifests in what I call Statist Islam. The phrase Statist Islam is here used to describe the manifestation of religious interest that is shaped within statist restrictions, which then leads to a unique form of Islamic praxis in a specific country context.

Indeed, my research utilises several concepts in political sociology to assess the autonomy of the state, the agency of religious elites, as well as the linkages that explain the constant negotiation that results in a unique form of religious praxis. Therein also lies my contribution, as the concepts that I use (e.g. state autonomy and policy feedback) are often overlooked in exploring the intricacies of state-religious relationship, as I will discuss in the next chapter.

3 The Case for State Fatwas in Singapore

3.1 State Fatwas

Fatwas are answers to religious questions and can be issued by Islamic religious scholars also known as ulama.²⁶ Among the ulama, those who issue fatwas are typically called muftis (lit. one who issues fatwas). Fatwas provide a normative frame for how Islamic religious praxis is observed. While individual followers are generally

²⁵ See, for example Anthony Giddens, *The Constitution of Society: Outline of the Theory of Structuration* (Cambridge: Polity Press, 1985); cited in Marlene Wind, 'A Constructivist Account of Institutions and Social Change', in *Sovereignty and European Integration: Towards a Post-Hobbesian Order*, ed. Marlene Wind (London: Palgrave Macmillan UK, 2001), 68–69, https://doi.org/10.1057/9781403901040_5.

²⁶ Although ulama is the plural form of the word alim, which means Islamic scholar, in this thesis I will treat ulama as both singular and plural.

free to follow or reject these religious edicts, fatwas have been shown to play a significant role in the observance of the Islamic faith today.²⁷

When the word fatwa is mentioned, perhaps the first thing that comes to mind is the 1989 fatwa issued by the Iranian Supreme Leader calling for the death of Salman Rushdie – the author whose book *The Satanic Verses* was deemed blasphemous to Islam – which led to attempts on his life. This shows that despite the non-binding nature of fatwas, they can be very influential in the everyday life of Muslims. Fatwas respond not only to questions of worship and ritual, but also to popular culture, economic transactions, and a whole plethora of other everyday tasks. Fatwas can define the religious position on a diverse range of subjects such as social conduct, environmental concerns, as well as political issues. There are therefore fatwas addressing whether Muslims should join social gatherings which serve alcoholic drinks, or open banking accounts that give out interest (interest is prohibited in Islam), or to provide a more current example, whether Bitcoin transactions are permitted. Fatwas also aim to regulate how Muslims conduct themselves in relation to the state and politics more broadly; fatwas have been issued to support certain political candidates and parties,²⁸ validate tax hikes,²⁹ and even justify war.³⁰ Fatwas can therefore play an influential role in reasserting the state's position and its policies.

Clearly the function of fatwas in interpreting and instructing Islamic religious praxis underlines their susceptibility to various societal and state demands. Nonetheless,

²⁷ Gary Bunt, *Islam in the Digital Age: E-Jihad, Online Fatwas, and Cyber Islamic Environments*, Critical Studies on Islam (London ; Sterling, Va: Pluto Press, 2003); Nico Kaptein, 'The Voice of the 'Ulamâ': Fatwas and Religious Authority in Indonesia', *Archives de Sciences Sociales Des Religions*, 2004, 115–30; Jakob Skovgaard-Petersen, *Defining Islam for the Egyptian State: Muftis and Fatwas of the Dār Al-Iftā*, Social, Economic, and Political Studies of the Middle East and Asia, v. 59 (Leiden ; New York: Brill, 1997); Muhammad Khalid Masud, Brinkley Morris Messick, and David Stephan Powers, eds., *Islamic Legal Interpretation: Muftis and Their Fatwas*, Harvard Studies in Islamic Law (Cambridge, Mass: Harvard University Press, 1996); Zaman, 'From Imam to Cyber-Mufti'.

²⁸ Kaptein, 'The Voice of the 'Ulamâ': Fatwas and Religious Authority in Indonesia'; P. Gillespie, 'Current Issues in Indonesian Islam: Analysing the 2005 Council of Indonesian Ulama Fatwa No. 7 Opposing Pluralism, Liberalism and Secularism', *Journal of Islamic Studies* 18, no. 2 (9 February 2007): 202–40, <https://doi.org/10.1093/jis/etm001>; Mohd Fadli Ghani, 'Wajib Sokong, Pilih Parti Islam [Compulsory to Support, Choose Islamic Party]', *Harakah Daily*, 8 May 2018, <http://www.harakahdaily.net/index.php/berita/15-tanah-air/6600-wajib-sokong-pilih-parti-islam>.

²⁹ 'Fatwa Berhubung GST [Fatwa on GST]', Jabatan Hal Ehwal Khas, accessed 18 May 2018, <http://www.jasa.gov.my/bm/gallery/lang-bm-arkib-lang-lang-en-archive-lang/23-isu-terkini/246-fatwa-berhubung-gst.html>.

³⁰ Yvonne Yazbeck Haddad, 'Operation Desert Storm and the War of Fatwas', in *Islamic Legal Interpretation: Muftis and Their Fatwas*, ed. Muhammad Khalid Masud, Brinkley Messick, and David S. Powers (Cambridge, Mass.: Harvard University Press, 1996), 297–309.

developing an understanding of how fatwas come to be accommodated within the state is not straightforward – and a key aim of this thesis is to demonstrate the complex ways through which the authority of fatwas is complex and is continually contested both inside and outside of the state. Works such as those by Masud, Messick and Powers’ go some way in developing an understanding of the adherence of fatwas to traditional religious positions as well as their adaptability to demands by sections of the society as well as the modern state.³¹ The chapters in their book – *Islamic Legal Interpretation: Muftis and their Fatwas* – show how a fatwas’ religious position can change in order accommodate various factors, such as public benefit,³² or petitioners’ demands and cultural norms.³³ Some fatwas also endorsed (to some extent) *ribā*’ or interest derived from banks even though it is commonly prohibited by Islamic scholars, which shows the adaptability of fatwas to modern state and societal demands.³⁴ The work of Masud, Messick, and Powers undeniably provides an important anthropological survey of how fatwas operate and gives a broad overview of fatwas’ complicated position as an instrument of religious instruction in society. The examination of fatwas in the modern state puts great emphasis on the former as a vehicle that connects between religious tradition and modern religious ideals (and rightly so). However the layers upon which fatwas function in furthering religious ideals were glossed over in the book, in particular fatwa’s bureaucratic position in the modern state and the secular legal framework that it operates in. It therefore lacks a particular insight in explaining how, in spite of arguably secular nature of the modern state, the religious authority of fatwas remains relevant today. My thesis builds upon the broad empirical focus of this work and narrows it to the subject matter which captures the unique relationship between fatwa and the state. This focussed case study enables me to examine deeper into the bureaucratic linkages of official fatwas in the

³¹ Masud, Messick, and Powers, *Islamic Legal Interpretation*.

³² Vardit Rispler-Chaim, ‘Postmortem Examinations in Egypt’, in *Islamic Legal Interpretation: Muftis and Their Fatwas*, ed. Muhammad Khalid Masud, Brinkley Morris Messick, and David Stephan Powers, Harvard Studies in Islamic Law (Cambridge, Mass: Harvard University Press, 1996), 278–85.

³³ Aharon Layish, ‘The Fatwa as an Instrument of Accommodation’, in *Islamic Legal Interpretation: Muftis and Their Fatwas*, ed. Muhammad Khalid Masud, Brinkley Morris Messick, and David Stephan Powers, Harvard Studies in Islamic Law (Cambridge, Mass: Harvard University Press, 1996), 270–77.

³⁴ Chibli Mallat, ‘Tantawi on Banking Operations in Egypt’, in *Islamic Legal Interpretation: Muftis and Their Fatwas*, ed. Muhammad Khalid Masud, Brinkley Morris Messick, and David Stephan Powers, Harvard Studies in Islamic Law (Cambridge, Mass: Harvard University Press, 1996), 270–77.

modern state, which I argue makes it both susceptible to state demands while opening up new venues to mark the boundary of its religious authority.

Clearly states are aware of the influence that fatwas wield as they retain close associations with fatwa issuers and regulate them through various laws and bureaucratic supervision. As fatwa issuers are incorporated in the state apparatus, they issue what are popularly known as “state fatwas”,³⁵ a term which will henceforth be used in my thesis to refer to state-linked or state-sanctioned fatwas. I must stress that my usage of ‘state fatwas’ does not mean that these religious decrees represent the official state position, rather it is to denote that the authority they wield is due to their recognition by the state. After all, the purpose of this research is to investigate how state fatwas can contest governments or other arms of the state. Skovgaard-Petersen demonstrates, for example, how Middle Eastern muftis, while occupying state-appointed positions, exercise a degree of autonomy by balancing between the demands of the state, the society, as well as religious interests.³⁶ He views state muftis “less a representative of the state... but rather an ally of a faction of the regime” that is in power, as they utilise the state as “an instrument for their pious and devout religious policies.”³⁷ These points demonstrate that state fatwas combine a number of factors, including scholarly disputes, wisdom of the jurists, and modern realities, which lead to analogical extensions of the body of legal knowledge. Muftis were therefore the “creative mediators” of the “ideal and the real of the shari'a”.³⁸ Attention drawn in these works on fatwas points to the complex state-societal considerations behind the issuing of fatwas. Just as importantly, they show that there are limits to how much a fatwa can deviate from the mainstream traditional position as it seeks to balance scriptural, traditional, and modern demands. As Messick puts it: “In this gap between divine plan and human understanding lay the perennially fertile space of critique, the locus of an entire politics articulated in the idiom of the shari'a... [T]he community confronted

³⁵ Skovgaard-Petersen, *Defining Islam for the Egyptian State*, 1997; Jakob Skovgaard-Petersen, ‘A Typology of State Muftis’, *Islamic Law and the Challenges of Modernity*, Eds Y. Yazbeck Haddad & B. Freyer Stowasser, Altamira Press, Walnut Creek, Ca, 2004, 81–97.

³⁶ Jakob Skovgaard-Petersen, *Defining Islam for the Egyptian State: Muftis and Fatwas of the Dār Al-Iftā*, Social, Economic, and Political Studies of the Middle East and Asia, v. 59 (Leiden ; New York: Brill, 1997); Jakob Skovgaard-Petersen, ‘Fatwas in Print’, *Culture & History*, no. 16 (1997): 73–88; Skovgaard-Petersen, ‘A Typology of State Muftis’.

³⁷ Skovgaard-Petersen, ‘A Typology of State Muftis’, 81.

³⁸ Brinkley Messick, *The Calligraphic State: Textual Domination and History in a Muslim Society* (Univ of California Press, 1996), 151.

the problems of developing a more detailed corpus of rules and procedures while continually adjusting to new social realities.”³⁹

State fatwas are positioned as an extension of state bureaucracy and designed to instruct how Muslims live their religious lives. They also demonstrate how co-opted religious institutions affect not only religious praxis in society, but also state decisions. The recognition of fatwas by the state represents a crucial indicator of how state-religious negotiation takes place today. It is worth noting that in many Muslim-majority countries today, the position of the mufti is a public office, a practice that can be traced as far back as the tenth century CE.⁴⁰ But more interesting is that this office is also established in several secular non-Muslim majority countries today, including in Singapore.⁴¹

A common position held by many observers is that the appointment of muftis by the state, be it in the Middle East or Southeast Asia, is an effort to curtail their independence.⁴² While these observations hold some truth to it, my thesis qualifies such a statement. The focus on religious restrictions imposed through state legislations and institutions can indeed curb the effectiveness of religious bureaucrats, yet this does not mean that the negotiation of religious demands rests solely on the domain of non-state religious elites (such as Islamist political parties or religious activists). Religious co-optation and bureaucratisation are often examined from the standpoint of the state and consequently discuss the restriction of religious demands, which then inadvertently diminishes the agency of religious bureaucrats, including muftis. My research, however, focuses on the perspective of co-opted entities, and therefore

³⁹ Messick, 17.

⁴⁰ ‘Ifṭā’, n.d., <http://www.oxfordislamicstudies.com/opr/t125/e978>; Richard W. Bulliet, ‘The Shaikh Al-Islām and the Evolution of Islamic Society’, *Studia Islamica*, no. 35 (1972): 53–67, <https://doi.org/10.2307/1595475>.

⁴¹ Examples include Thailand, Russia, and Romania. See: Moshe Yegar, *Between Integration and Secession: The Muslim Communities of the Southern Philippines, Southern Thailand, and Western Burma/Myanmar* (Lanham, Md: Lexington Books, 2002); Imtiyaz Yusuf, ‘Islam and Democracy in Thailand: Reforming the Office of “Chularajmontri/Shaiḫ Al-Islām”’, *Journal of Islamic Studies* 9, no. 2 (1998): 277–98; Galina Yemelianova, ‘Russia’s Umma and Its Muftis’, *Religion, State and Society* 31, no. 2 (June 2003): 139–50, <https://doi.org/10.1080/09637490308285>; Jørgen S Nielsen, ed., *Yearbook of Muslims in Europe*, vol. 6 (Leiden: Brill, 2014).

⁴² M. B. Hooker, *Indonesian Islam: Social Change through Contemporary Fatāwā*, Asian Studies Association of Australia Southeast Asia Publications Series (Honolulu, HI: University of Hawai’i Press, 2003); Steiner, ‘Governing Islam: The State, the Administration of Muslim Law Act (AMLA) and Islam in Singapore’; Skovgaard-Petersen, ‘A Typology of State Muftis’.

examines how state regulation can be affirmed, negotiated, and resisted. I advance this by analysing the functions of state fatwas.

My area of research focus beings about significant benefit as it provides a more nuanced analysis on the negotiation of religious demands by bringing in the perspective of religious elites who are already embedded in state bureaucracy. This matters because in light of studies mentioned earlier on state-religious demands, which tend to take a binary view of the outcome, my research expands the middle ground between these two sets of interest. These interests intersect through state fatwa institutions that issue religious instructions while being situated within the modern state bureaucracy. Furthermore in the literature I mentioned, the agency of religious bureaucrats is often conflated with their official role as state functionaries,⁴³ something which my thesis intends to qualify since these religious actors also possess considerable authority to contest state decisions. My research expands on the relationship of fatwas in particular to the realities of the modern state. This especially concerns a particular aspect of fatwa-making that is subject to the demands of an overarching state. State fatwas have to operate within state regulations that empower them, yet also constrict their functions. The mediation between sacred and secular interests also bolsters the role of fatwas in the modern secular state as they latch on and expand their bureaucratic and legal positions. I therefore demonstrate how state fatwas navigate such pressure from ‘above’ as they juggle ancient traditions and modern demands. What this negotiation results in is the amalgamation of state policies, law, and bureaucratic restrictions as seen through religious edicts, which I conceptualise as Statist Islam.

State fatwas embody elements of bureaucratic, legal, and traditional authority, which allow them to both legitimise and challenge state decisions. Especially in investigating state-religious dynamics, fatwas should not be neglected just because they are linked to the state. Rather *because* of this link, fatwas should be examined as a formalised representation of demands by co-opted religious elites. This macro-analysis allows me to examine to what extent state control of religion is pervasive, and what, if possible, do fatwas do to mitigate this effect.

⁴³ I will elaborate on this point in Chapter 2.

Moreover, state fatwas represent how a traditional religious body (i.e. the fatwa-issuing institution) asserts its authority, and in the process becomes relevant to the various nation-building projects of the modern state. For example, the co-optation of such institutions can foster perceptions of legitimacy to the government.⁴⁴ Yet it also means that these institutions are involved in the decision-making process of creating state-sanctioned religious projects. In this sense, state fatwas are central to state projects because their primary function is to inform and define the authoritative normative position of Islamic religious practices for Muslims.⁴⁵

The study of state fatwas in nation-building projects is important, yet – with Indonesia as the only exception – it is something that has been overlooked in Southeast Asian countries. Academic work has largely been restricted to examine state fatwas’ jurisprudential analysis and procedural limitations, rather than their political outcomes and consequences.⁴⁶ In other words, there is a lack of research on the political undercurrents involved in the establishment of state fatwa institutions, the effects of a highly bureaucratic fatwa-making process on state-religious relationship, as well as the impact of state fatwas on state-society dynamics. This is despite the fact that state fatwas have been shown to “constitute an important form of dialogue” between state and religious interests,⁴⁷ if not influence state policies in Muslim-majority countries.⁴⁸ Even in places where Muslims form the minority, fatwas in general remain relevant

⁴⁴ Robert Hefner, ‘Islamization and Democratization in Indonesia’, *Islam in an Era of Nation-States*, 1997, 75–127; Liow, *Piety and Politics: Islamism in Contemporary Malaysia*; Seyyed Vali Reza Nasr, *Islamic Leviathan: Islam and the Making of State Power* (Oxford University Press, 2001).

⁴⁵ Skovgaard-Petersen, *Defining Islam for the Egyptian State*, 1997; Masud, Messick, and Powers, *Islamic Legal Interpretation*; R Robet, ‘Perda, Fatwa and the Challenge to Secular Citizenship in Indonesia’, in *State and Secularism Perspectives from Asia*, ed. Michael S. H Heng and C. L Ten ([Hackensack] New Jersey: World Scientific, 2010), 263–78, <http://public.eblib.com/choice/publicfullrecord.aspx?p=731207>; Kaptein, ‘The Voice of the ‘Ulamâ’: Fatwas and Religious Authority in Indonesia’.

⁴⁶ Hasnan Kasan, *Institusi Fatwa Di Malaysia [The Fatwa Institution in Malaysia]* (Bangi: Penerbit Universiti Kebangsaan Malaysia, 2008); Ahmad Hidayat Buang, ‘Analisis Fatwa-Fatwa Semasa Syariah Di Malaysia [An Analysis of Contemporary Shariah Fatwas in Malaysia]’, *Jurnal Syariah* 10, no. 1 (2002): 39–52; Rahimin Affandi Abdul Rahim, ‘Ijtihad Dalam Institusi Fatwa Di Malaysia: Satu Analisis [Ijtihad in Malaysia’s Fatwa Institution: An Analysis]’, *Jurnal Syariah* 17, no. 1 (2009): 195–222; Othman Ishak, *Fatwa Dalam Perundangan Islam [Fatwa in Islamic Legislation]* (Kuala Lumpur: Fajar Bakti, 1981); Mohamed Fatris Bakaram, ‘Theories of Iftā’ in Islamic Law with Special Reference to the Shāfi‘ī School of Law and Their Application in Contemporary Singapore’ (University of Birmingham, 2009).

⁴⁷ Hooker, *Indonesian Islam*, 87.

⁴⁸ Jeremy Menchik, ‘The Co-Evolution of Sacred and Secular: Islamic Law and Family Planning in Indonesia’, *South East Asia Research* 22, no. 3 (1 September 2014): 359–78, <https://doi.org/10.5367/sear.2014.0220>; Syafiq Hasyim, ‘Majelis Ulama Indonesia and Pluralism in Indonesia’, *Philosophy & Social Criticism* 41, no. 4–5 (2015): 487–95.

as they address a diverse range of everyday issues. This holds true even in Western Europe and North America,⁴⁹ and of course the subject of my thesis: Singapore.

3.2 Singapore

Singapore is the smallest country in Southeast Asia (by land area) and home to a minority Muslim population. Out of its 5.6 million residents, only 15% are Muslims, the vast majority of whom are of the Malay ethnicity.⁵⁰ Muslims in Singapore are therefore typically referred to as ‘Malay-Muslims’. Singapore declares itself a secular country, and even describes itself as “strictly secular”.⁵¹ Here, my research provides an insight for analysing minority Muslim aspects, which resonate with other Muslim experiences in a secular environment, such as those in the West.

Singapore makes for a fascinating case study because despite the state’s self-proclaimed commitment to secularism, it employs a “paradoxical” role in regulating religious behaviour by actively determining the limits of Islamic orthopraxy and orthodoxy in the country.⁵² The contrast between the secular interest of the state and the religious interest that fatwas represent allows me to clearly mark out where the differences between the state and the fatwa institution lie. While such a scenario is not impossible to capture in Muslim-majority countries, state-religious differences can be obscured by the shared interests of state-linked religious elites and a government that acts in the interest of its Muslim-majority electorate. Therefore in a secular Muslim-minority state, the cleavage between state and religious (i.e. Islamic) interests becomes more pronounced.

Singapore’s version of secularism manifests itself in a very authoritarian manner. Areas where potential contestations against the state can emerge are highly regulated.⁵³ This leads the state to manage contestations through a series of measures,

⁴⁹ Zaman, ‘From Imam to Cyber-Mufti’; John R. Bowen, ‘Beyond Migration: Islam as a Transnational Public Space’, *Journal of Ethnic and Migration Studies* 30, no. 5 (September 2004): 879–94, <https://doi.org/10.1080/1369183042000245598>; Bunt, *Islam in the Digital Age*.

⁵⁰ Singapore, ed., *Census of Population 2010* (Singapore: Singapore Department of Statistics, 2010).

⁵¹ A previous Home Affairs Minister of Singapore said: ‘No single religion can be said to be the dominant religion, nor is any religion an official religion of the State because Singapore is strictly secular.’ Thio, ‘Control, Co-Optation and Co-Operation: Managing Religious Harmony in Singapore’s Multi-Ethnic, Quasi-Secular State’, 203.

⁵² Kamaludeen Mohamed Nasir and Syed Muhd Khairudin Aljunied, *Muslims as Minorities: History and Social Realities of Muslims in Singapore*, Cet. 1 (Bangi: Penerbit Universiti Kebangsaan Malaysia, 2009); cited in Steiner, ‘Governing Islam: The State, the Administration of Muslim Law Act (AMLA) and Islam in Singapore’.

⁵³ Case, ‘New Uncertainties for an Old Pseudo-Democracy’; Hamayotsu, ‘Islam and Nation Building in Southeast Asia’; Hefner, *Remaking Muslim Politics : Pluralism, Contestation, Democratization*;

including “pre-emptive institutional initiatives” that co-opt societal actors within the fold of the state.⁵⁴ Included among these co-opted entities are religious elites and institutions. Yet as my thesis argues, this brings about an ironic outcome because co-optation also strengthens the legal-bureaucratic position of the co-optees in the state.

In Singapore, the co-optation of religious institutions was made possible through bureaucratisation, which enabled state control over religious projects. As I mentioned earlier, the co-optation of religion is one theme that underlines my research, as it explains – albeit partially – how the relationship between the state and religious institutions developed over time as a result of authoritarianism, political pragmatism, as well as religious activism. There are several reasons behind the creation of an Islamic religious bureaucracy in Singapore, which I will elaborate in Chapter 3. I will briefly point out some of them here. Firstly, Singapore is located in a region that is rich in Islamic history, where Islam has been present and observed for several centuries. Where the modern religious bureaucracy is concerned, its development is relatively recent and can be traced back to 1880 when special laws were enacted by the British colonial power to standardise the administration of religious affairs. Secondly, Singapore has inextricable links to its Muslim-majority neighbours, especially Malaysia. Prior to British colonisation, Singapore was part of the Sultanate of Johor, the southmost state in Malaysia today. Johor until today is ruled by a Malay-Muslim sultan where, just like the rest of Malaysia, Islamic institutions remain part of state machinery and Islamic law forms parts of its legal system. Furthermore between 1963 to 1965 Singapore merged with Malaysia and its constitution borrowed heavily from Malaysia’s, which designated special recognition to the Islamic faith. Thirdly, Singapore is sandwiched between Malaysia and Indonesia, two prominent Muslim-majority countries where religion – specifically Islam – continues to play an influential role in politics. Even as a Muslim-minority country, Singapore can be susceptible to Islamic religious trends due to proximity to its neighbours. As a result in order to preserve dominance, the secular Singapore state closely regulates avenues where religious contestations can occur. One of the ways it does this is through the co-optation of religious institutions, which then channels religious demands through the

Rodan and Hughes, *The Politics of Accountability in Southeast Asia*; Turner, ‘Soft Authoritarianism, Social Diversity and Legal Pluralism: The Case of Singapore’; Weiss, ‘Of Inequality and Irritation’.

⁵⁴ Garry Rodan, ‘Singapore “Exceptionalism”? Authoritarian Rule and State Transformation’, *Asia Research Centre Working Paper*, no. 131 (May 2006): 11.

religious bureaucracy. The creation of a religious bureaucracy – while giving religious institutions access to state resources – facilitates the state to assert its interests through a series of legal-bureaucratic regulation.

It is important to note that the regulation of religious affairs in Singapore should not be taken as a distinct policy that is specifically targeted at Muslims.⁵⁵ The regulation of the Islamic faith was the result of various factors and circumstances (some which I mentioned above) that culminates together with the establishment of a modern state. While it is undeniable that the native Muslim community seems to bear the brunt of state scrutiny on religious affairs,⁵⁶ I must also caution that this should be seen as part of a larger authoritarian state policy that seeks to regulate *all* potential avenues of political contestation, be it religiously-motivated or otherwise.⁵⁷

It is not only Muslims who have their religious affairs scrutinised or managed by the state. Hindus, who form 5% of Singapore's population, also have a recognised statutory body created in 1968 called the Hindu Endowments Board (HEB). The core function of the HEB is the management of Hindu temples and various other assets.⁵⁸ There is also the Hindu Advisory Board which advises the state on Hindu religious issues, thus constructing a version of "proper Hinduism"⁵⁹ as the state-religious authorities converge. For the larger groups of Buddhists/Taoists and Christians, who account for 44% and 18% of the population respectively, there is strikingly no specific government department or statutory body that regulates their affairs. However this does not make them exempt from state involvement in their faith. Various measures

⁵⁵ For a debate on this issue, see Kamaludeen Mohamed Nasir, 'Rethinking the "Malay Problem" in Singapore: Image, Rhetoric and Social Realities I', *Journal of Muslim Minority Affairs* 27, no. 2 (August 2007): 309–18, <https://doi.org/10.1080/13602000701536224>.

⁵⁶ Kamaludeen Mohamed Nasir, Alexius A. Pereira, and Bryan S. Turner, *Muslims in Singapore: Piety, Politics and Policies*, Routledge Contemporary Southeast Asia Series 26 (London ; New York: Routledge, 2010); Steiner, 'Madrasah in Singapore: Tradition and Modernity in Religious Education'; Steiner, 'Governing Islam: The State, the Administration of Muslim Law Act (AMLA) and Islam in Singapore'.

⁵⁷ Garry Rodan and Kanishka Jayasuriya, 'The Technocratic Politics of Administrative Participation: Case Studies of Singapore and Vietnam', *Democratization* 14, no. 5 (2007): 795–815; Garry Rodan, 'Singapore "Exceptionalism"? Authoritarian Rule and State Transformation', in *Political Transitions in Dominant Party Systems: Learning to Lose*, ed. Edward Friedman and Joseph Wong (Abingdon, Oxon ; New York: Routledge, 2008), 231–51; Weiss, 'Of Inequality and Irritation'; Cho-Oon Khong, 'Political Legitimacy through Managing Conformity', in *Political Legitimacy in Southeast Asia: The Quest for Moral Authority*, ed. Muthiah Alagappa, 1995, 108–35; Thio, 'Control, Co-Optation and Co-Operation: Managing Religious Harmony in Singapore's Multi-Ethnic, Quasi-Secular State'.

⁵⁸ Vineeta Sinha, "'Mixing and Matching": The Shape of Everyday Hindu Religiosity in Singapore', *Asian Journal of Social Science* 37, no. 1 (1 January 2009): 83–106, <https://doi.org/10.1163/156853109X385402>.

⁵⁹ Sinha, 88.

have been taken by the state to manage these religions as well. To illustrate, Religious Knowledge was a subject introduced in Singapore secondary schools in the 1980s, which covered various faiths including Christianity. However the state feared that this led to increased religiosity among Christians (and Muslims), and the subject was scrapped after just four years.⁶⁰ Then there is the case involving supposed ‘Marxist Conspirators’ who allegedly tried to subvert the state. These ‘conspirators’ were arrested, among them a Catholic priest. Other priests criticised the arrests but were reprimanded by the state.⁶¹ Singapore also bans Jehovah’s Witness partly due to its members’ refusal to sing the national anthem and serve in the uniformed conscription. Several other churches were also banned by the state, citing political interference as a reason.⁶²

Various legal mechanisms have also been introduced to further legitimise state regulation of religion, such as the 1990 Maintenance of Religious Harmony Act which criminalises religious institutions and leaders from, among others, “carrying out activities to promote a political cause, or a cause of any political party while, or under the guise of, propagating or practising *any* religious belief.”⁶³ (Emphasis mine) These examples underline the paranoid approach that the state takes in managing religious affairs. Above all, these cases signify the state’s suspicion of potential religious-motivated contestations against its authority and conformity, which leads to the pervasive management of religious practice.

Yet across all organised religions in Singapore, the management of the Islamic faith is the most visible due to it being the most bureaucratized religion in the country. This highly bureaucratized form of religious administration provides a distinct entry point in examining the state-religious relationship in Singapore. This is because by bureaucratizing religious institutions, the Singapore state endows them with “positional authority”⁶⁴ that can both curb and boost the power of such institutions. In

⁶⁰ Charlene Tan, ‘From Moral Values to Citizenship Education: The Teaching of Religion in Singapore Schools’, in *Religious Diversity in Singapore*, ed. Lai, Ah Eng (Singapore: Institute of Southeast Asian Studies & Institute of Policy Studies, 2008), 321–41.

⁶¹ Thio, ‘Control, Co-Optation and Co-Operation: Managing Religious Harmony in Singapore’s Multi-Ethnic, Quasi-Secular State’.

⁶² Kevin Y.L. Tan, ‘Law, Religion, and the State in Singapore’, *The Review of Faith & International Affairs* 14, no. 4 (October 2016): 65–77, <https://doi.org/10.1080/15570274.2016.1248537>.

⁶³ ‘Maintenance of Religious Harmony Act’ (1990), sec. 8, <https://sso.agc.gov.sg/Act/MRHA1990>.

⁶⁴ Michael Saward, ‘Cooptation and Power: Who Gets What from Formal Incorporation’, *Political Studies* 38, no. 4 (1990): 588–602.

this sense, the co-optation of religion through bureaucratic mechanisms cannot be read simply as an instrument of control, but also as a process that enables certain religious groups to gain a level of legitimacy and authority within an ostensibly secular state. Among the beneficiaries of this bureaucratisation is the fatwa-issuing body – typically referred to as the Fatwa Committee – responsible for issuing religious decrees for the Muslim community.

I should be clear that I place fatwas at a juncture that is legally and bureaucratically connected to the state, yet somewhat removed from its clutches. It is true that the fatwa-issuing body is situated under the Islamic administrative body MUIS, and MUIS itself is a statutory board that is positioned under a government ministry. Yet MUIS itself cannot be simplistically defined as The State. It may be linked to The State, but its establishment and bureaucratisation – in its original purpose and intent – is as a statutory board that is expected to exercise some degree of autonomy. Hence the state-linked religious bureaucracy can, at the very least, claim semi-state autonomy.⁶⁵ For the Fatwa Committee that is linked to semi-state MUIS, it also possesses an added degree of separation from the state as its members include volunteer ulama that further removes them from state logic. I will elaborate more on this aspect of the Fatwa Committee in Chapter 3 when I trace the legal-bureaucratic development of state fatwas. In addition to this qualification of state fatwas' bureaucratic dynamic, their actual function also provides an insight on this relationship to the state. As I will show in later chapters, state fatwas demonstrate a high degree of autonomy despite their bureaucratic connection.

4 A Brief Conceptual Outlook

In order to examine the functions of fatwas in the modern state, this thesis invokes specific concepts related to political sociology. Although religion is an important theme in this research, I must be clear that I do not set out to survey its ontological or epistemological definition in political sociology.⁶⁶ Instead my thesis explores the role of state fatwas that represent the demands of religious elites, demands that go beyond

⁶⁵ This will be explained in Chapter 3.

⁶⁶ For an outline mapping religion in political sociology, see V. Amiraux, 'Religion and Political Sociology', in *The Wiley-Blackwell Companion to Political Sociology*, ed. Edwin Amenta, Kate Nash, and Alan Scott (Chichester, UK: John Wiley & Sons, Ltd, 2012), 336–46, <https://doi.org/10.1002/9781444355093.ch30>.

“a set of doctrines binding to the individual,”⁶⁷ but as an “ideology, as a blueprint for social reality.”⁶⁸ A key element in examining such demands are religious institutions including fatwa issuers, which were bureaucratised to become a part of the state. While bureaucratisation undeniably facilitated state control of religion,⁶⁹ it also made these state-sanctioned religious bodies to become a conduit for advancing the demands of religious elites. Going further, I will probe how these demands can affect state decisions and expand the legal-bureaucratic relevance of fatwas in the modern state structures.

A key assumption underpinning statist intervention in the religious domain is the idea of the autonomous state. The autonomous state refers to the notion that the state should be understood not so much as an arena of contestation,⁷⁰ but as an autonomous actor in itself. Here, the autonomous state is described as a Weberian organisation whose goals and objectives are separated from other interests. In other words, state interest is not necessarily “reflective of the demands or interests of social groups, classes, or society.”⁷¹ In analysing state-societal relations, state decision-making and the formulation of policies is therefore taken to be largely independent of other non-state interests.

The bureaucratisation of religious institutions is then considered a project of the autonomous state to assert its authority over religious elites. It allows the state to tie religious elites to state logics and enables the state to manage various religious matters. Yet the association of religious institutions to the state is not a one-way street, as co-opted religious elites can also use this link to assert their demands. To conceptualise this, the relationship between the state and the religious co-optees is examined through

⁶⁷ Sharon Siddique, ‘The Administration of Islam in Singapore’, in *Islam and Society in Southeast Asia*, ed. Taufik Abdullah and Sharon Siddique (Singapore: ISEAS, 1986), 329.

⁶⁸ Siddique, 329.

⁶⁹ Steiner, ‘Madrasah in Singapore: Tradition and Modernity in Religious Education’; Steiner, ‘Governing Islam: The State, the Administration of Muslim Law Act (AMLA) and Islam in Singapore’; Abdullah, ‘Managing Minorities in Competitive Authoritarian States’; Mohamed Nawab Mohamed Osman, ‘The Religio-Political Activism of Ulama in Singapore’, *Indonesia and the Malay World* 40, no. 116 (March 2012): 1–19; Mohamad, ‘Legal-Bureaucratic Islam in Malaysia: Homogenizing and Ringfencing the Muslim Subject’.

⁷⁰ See for example Robert A Dahl, *A Preface to Democratic Theory*, vol. 115 (University of Chicago Press, 1956); Robert A Dahl, *Polyarchy: Participation and Opposition* (Yale University Press, 1973); David B Truman, ‘The Governmental Process: Public Interests and Public Opinion’, *Alfred A Knopf: New York*, 1951.

⁷¹ Theda Skocpol, ‘Bringing the State Back In: Strategies of Analysis in Current Research’, in *Bringing the State Back In*, ed. Peter B Evans, Dietrich Rueschemeyer, and Theda Skocpol (Cambridge University Press, 1985), 9.

the lens of policy feedback, which in this case refers to how state policies create new avenues and constituents that can affect future state decisions.⁷² Policy feedback is rooted in Schattschneider's observation that "Whoever decides what the game is about decides also who gets into the game".⁷³ Here, the state sets 'the game' by advancing a policy to closely regulate religious affairs. In doing so, religious institutions were co-opted within its fold.

Yet by getting into 'the game', the co-optees are also granted valuable access to state resources. Focusing on state fatwas therefore enables me to analyse how the demands of these co-opted religious elites are advanced within the workings of the state machinery. As state fatwas bear the metaphorical stamp of state approval, they not only instruct religious praxis for the local Muslim community but can also negotiate and inform state decisions through their legal-bureaucratic recognition.

Co-optation and bureaucratisation therefore allowed state fatwas to shape 'the game', made possible through the 'positional authority' that they gained. To be more precise, I identify two forms of authority which state fatwas assert: (1) legal-bureaucratic authority and (2) traditional-societal authority.

Legal-bureaucratic authority is derived from the formal recognition of fatwas by the state. The running of the modern state necessitates acts of co-optation to be formalised through bureaucratic as well as legal recognitions. Bureaucratically, the fatwa-issuing body is situated within an institution that administers Islamic religious affairs known as MUIS. MUIS itself is a statutory board under the purview of a government ministry. Legally, fatwas are recognised through the Administration of Muslim Law Act (AMLA), a legal enactment that encompasses Islamic affairs in Singapore. AMLA details the various aspects of state fatwas, such as their legal jurisdiction and the fatwa-

⁷² Theda Skocpol, *Protecting Soldiers and Mothers* (Cambridge, MA: Harvard University Press, 1992); Theda Skocpol, 'Bringing the State Back In: Retrospect and Prospect The 2007 Johan Skytte Prize Lecture', *Scandinavian Political Studies* 31, no. 2 (2008): 109–24; Elmer Eric Schattschneider, *Politics, Pressures and the Tariff: A Study of Free Private Enterprise in Pressure Politics, as Shown in the 1929-1930 Revision of the Tariff* (Prentice-Hall, inc., 1935); Eric M Patashnik and Julian E Zelizer, 'The Struggle to Remake Politics: Liberal Reform and the Limits of Policy Feedback in the Contemporary American State', *Perspectives on Politics* 11, no. 4 (2013): 1071–87.

⁷³ Elmer Eric Schattschneider, *The Semisovereign People: A Realist's View of Democracy in America* (Hinsdale, Ill: Dryden Press, 1975); cited in Suzanne Mettler and Joe Soss, 'The Consequences of Public Policy for Democratic Citizenship: Bridging Policy Studies and Mass Politics', *Perspectives on Politics* 2, no. 1 (March 2004): 58, <https://doi.org/10.1017/S1537592704000623>.

making process. This legal-bureaucratic advantage boosts the position of state fatwas in society as it elevates them over other non-official fatwas.

Another aspect of fatwas that should not be ignored is their traditional-societal authority, which remains crucial to their core function as a form of religious instruction. While legal-bureaucratic authority grants state fatwas important modern relevance, it also restricts their function by tying them to formal regulations. Despite that, state fatwas *can* function beyond these regulations. After all at its very basic, a fatwa is simply an answer to a religious question, given by a religious teacher or scholar. This is a normative, even expected, aspect of religious tradition as laypeople seek instructions from religious specialists on how to practice religion. Fatwas are issued by a wide range of religious scholars, the vast majority of whom are not backed by the modern bureaucratic authority. Therefore, most fatwas are non-binding because they function as straightforward answers on religion, separated from the modern legal-bureaucratic realm. This also grants them the flexibility to freely address religious issues without being tied to modern regulations. Herein also lies the unique influence of fatwas as the religious scholars who issue them rely on their traditional recognition as successors of a religious legacy and interpreters of sacred texts. This is what I refer to as fatwas' traditional-societal authority, which allows them to directly instruct the Muslim community in spite of state and legal procedures. Traditional-societal authority is a form of authority based on long-standing Islamic religious tradition, and inherent in the very function of fatwas as a mode of religious instruction. Although traditional-societal authority remains a key feature of fatwas, even when associated with the modern state this does not necessarily impede their authority. I contend that the state-linked legal-bureaucratic links can also amplify their influence on the Muslim community.

It is important to note that the bureaucratisation (or indeed co-optation) of fatwas by the modern state is not a classical juristic phenomenon. Early Islamic polity saw a robust practice of *iftā'* (fatwa-making) as fatwas were solicited from religious scholars who rose to prominence having established their own jurisprudential school of thought, which largely shaped the outcome of Islamic legal discourse until today. Over time with the evolution of state bureaucracy, the position of muftis became embedded into state structures. The most notable development was recorded circa the 10th century

as the seat of the mufti officially became public office.⁷⁴ The position of state muftis evolved with the advent of the modern nation-state system. Some countries also incorporated traditional religious institutions into the modern state bureaucracy, as the latter subsumed the administration of Islamic affairs. This includes the management of charitable religious endowments, collection of alms, and even administration of madrasahs and mosques. For the fatwa-issuing body, this resulted in the state recognition muftis which then cemented their official position in the modern state. This recognition granted state-linked authority not only to the mufti, but also the fatwas that he issues, which is the focus of this thesis.

Despite the proximity of the modern fatwa institution to the state, I do not take the position that their proximity to the state negates their autonomy, a common assumption in addressing modern religious bureaucracies in the Southeast Asia.⁷⁵ Yet my thesis also does not deny that co-optation takes place. Rather what it does is that it qualifies the exact nature of this state-religious co-optation; state fatwas exhibit particular autonomy not only by issuing fatwas against state policies and court decisions, but gradually became bureaucratically and legally entrenched to be able to define the ‘right’ kind of religious praxis in Singapore

Identifying these two distinct channels of authority is crucial in developing an understanding of how state fatwas function in a modern state. My research underlines that state-linked religious institutions can resist state decisions, and more importantly it demonstrates how these forms of resistance take place in a highly-regulated authoritarian milieu. I do this by inspecting the effects state fatwas have on state decisions and vice versa. As I will discuss in Chapter 4, state policies can encroach on how religious praxis is observed. In cases where the government engaged state fatwas, they can influence the direction of policies. However when fatwas were omitted from the policymaking process – i.e. when their legal-bureaucratic authority is ignored – their traditional-societal authority was invoked in order to retain control over the direction of religious praxis in the Muslim community. Another set of fatwas which I examine concerns the authority of state fatwas in the court of law (Chapter 5). This set

⁷⁴ ‘Ifṭā’; Bulliet, ‘The Shaikh Al-Islām and the Evolution of Islamic Society’.

⁷⁵ Hamayotsu, ‘Islam and Nation Building in Southeast Asia’; Liow, *Piety and Politics: Islamism in Contemporary Malaysia*; Steiner, ‘Governing Islam: The State, the Administration of Muslim Law Act (AMLA) and Islam in Singapore’; Steiner, ‘Madrasah in Singapore: Tradition and Modernity in Religious Education’; Hooker, ‘Syariah Law in Contemporary Indonesia and Malaysia’.

of cases reveals the extent of state fatwas' legal-bureaucratic authority vis-à-vis the judiciary. Yet despite losing in court, the fatwa body flexed its traditional-societal authority by taking several measures to preserve these court-overruled fatwas. These examples demonstrate the ways in which religious resistance takes place among co-opted religious institutions. Contesting state policies or court judgments might be an expected behaviour of Islamist political groups, but not so for state-sanctioned religious bureaucrats. These case studies, of fatwas and state policies and of fatwas and civil law, therefore highlight the overlooked consequences of co-opting religious elements. As fatwas – which originally function outside state regulations – become tied to legal-bureaucratic regulations, they not only gained the advantage to shape state decisions, but also benefited from having their authority and relevance expanded through these very regulations that were meant to control them. This has become even more apparent as security concerns stemming from radicalised individuals have caused the state to regulate even more religious issues. As I will explain in Chapter 6, these developments changed the institutional capacity of the state as it relies on state fatwas to counter radical online fatwas. As a result, state fatwas became the basis to police boundaries of acceptable religious teachings in Singapore. They became the legal benchmark of religious praxis, and this ultimately means that the legal relevance of state fatwas expanded and became more entrenched in state structures. Thus the combination of informal traditional-societal authority and formalised legal-bureaucratic authority allows fatwas to affect not only societal religious praxis, but also the state's interpretation of it as well.

Overall, the outcome of these forms of resistance, negotiation, and contestation is conceptualised as Statist Islam. In essence, Statist Islam represents the fusion of religious and statist interests. However beyond its normative use to refer to religious projects driven by the state,⁷⁶ my conception of Statist Islam recognises the complex negotiation between state and religious interests, as well as its intended and unintended consequences. To be more precise, Statist Islam is the amalgamation of state and religious interests, arrived at through the negotiation of issues involving the state and state-aligned religious bureaucrats, and at times other domestic and exogenous factors.

⁷⁶ Mohamad, 'Making Majority, Undoing Family: Law, Religion and the Islamization of the State in Malaysia'; Saravanamuttu, 'Encounters of Muslim Politics in Malaysia'; Saenong, 'Statist Islam and Folk Islam Ethnohistory and Muslim Practices in Bantaeng'.

Examining Statist Islam means examining the various forms of authority that are invoked in these negotiations to reveal the changing capacity and function of state fatwas in directing religious praxis. The nature of state-religious relationship through the co-optation of religious institutions, and the subsequent resistance and negotiation, underlines how Statist Islam manifests in Singapore.

5 Methodology and Contributions

In order to examine the effects of co-optation and bureaucratisation of religious institutions on the decisions of the modern state, my research has focused on the legal and bureaucratic dynamics between fatwas and the state. In Chapter 4, I will scrutinise how fatwas affect state decisions by focusing on public policies that relate to health and reproduction issues. These are themes that fatwas typically address because developments concerning health and medicine can often challenge traditional religious positions. Another pertinent area is the position of state fatwas in the legal system, especially because their claim of relevance to the modern state is rooted in modern legal statutes. My case study – in particular Chapter 5 – will show the differences between the Fatwa Committee and the court in interpreting Singapore’s legal statute on Islamic affairs AMLA, and what it means in terms of how state fatwas function.

As my thesis focuses on the politics of state fatwas, the only way I could pursue it is by relying on sources that record how fatwas and state interests intertwine. No previous research on the politics of fatwas in Singapore exists and as such, I had to rely on confidential documents that shed light on the fatwa-making process in Singapore. These documents are the Fatwa Committee’s minutes of meetings which showed the deliberations and considerations of committee members (that are not necessarily explained when a fatwa is publicised). Clearly this is an advantage that allowed me to take an in-depth look into the complexities of fatwa-making, and identify how negotiation and resistance take place through state fatwas.

This thesis utilises a three-pronged methodological approach. It consists of (a) tracing and mapping state fatwas’ legal-bureaucratic and traditional-societal authority, (b) analysing the official fatwa-issuing processes and unofficial responses, and (c) examining the legal impact of state fatwas. To elaborate:

- a. A key approach I utilise is **tracing and mapping** state fatwas’ institutional and bureaucratic relationship with the state. Tracing the

establishment of an official fatwa institution and the relevant statutory laws not only demonstrates how fatwas fit within the structure of the state, but also gives a strong indicator of their intended purpose. Next, examining the text of state fatwas, mufti statements, societal reactions, news reports, newspaper forums, and policy references to state fatwas enables me to analyse the extent of their function beyond the formal legal and bureaucratic duties. They also allow me to analyse the reactions of members of the society and their attitude towards state fatwas, which then reveals the societal expectation of these official religious decrees. In other words, these sources reveal both the legal-bureaucratic and traditional-societal functions of state fatwas.

Relevant sections are supported by biographical and semi-structured interviews with key figures, including the current and former Muftis of Singapore, as well as several other religious elites. While the interviews were used only for a small section of this thesis, they were nonetheless useful to confirm my interpretation of events that occurred, and also to understand the dynamics between fatwas and the state. Interviews were conducted mainly in the Malay language, but given the nature of the subject matter, the Arabic language was also used to explain the religious reasonings behind fatwas. My background in Islamic Studies and familiarity with Islamic religious nomenclatures proved instrumental in this regard as it allowed me to appreciate the nuances of Islamic religious terminologies and concepts.

Parts of this thesis heavily referenced the Fatwa Committee's minutes of meetings. These minutes are a set of unique and confidential documents that are not open to the public, and to which I have been granted access by the Mufti of Singapore. Although MUIS – the religious administrative body – was initially hesitant that these details are used in my thesis, they eventually relented, although by then I have decided to have the thesis embargoed so as to give me time to expand on certain chapters while considering publication. These minutes of meetings recorded the discussions and deliberations of the Fatwa Committee and contained details from the very first meeting held in October 1968 until the most recent ones. For my research, I analysed these documents, which were written mostly in the Malay language, with some sections containing hand-written Arabic texts. Only the more recent minutes

are recorded in English. While these documents are somewhat organised, they are not digitised. This means that in order to find the right sources, I had to physically sieve through thousands of pages of the documents, appendixes containing newspaper and book clippings, letters from fatwa petitioners, as well as correspondences from the various state ministries, politicians, overseas muftis, and the likes.⁷⁷

Another point to raise here is that going through these minutes of meetings gave me unfettered access to *all* Singapore state fatwas that were ever issued. Only a small percentage of state fatwas in Singapore were publicised, and even less were digitised, making searching for them a tedious affair. Publicised state fatwas cannot be found in one place, rather they are scattered across newspapers, booklets compiling selected fatwas, and also internet archives (which preserve fatwas that were once published online but taken down). Yet because not all fatwas were published nor publicised, there is no single central database for Singapore state fatwas except through the minutes of meetings. Herein lies the benefit of bureaucratic record-keeping: each fatwa that was issued – publicised or not – had to be discussed, and since every discussion is recorded, the minutes become the only source that combines all fatwas that were ever deliberated. Access to the minutes of meetings is therefore a treasure trove that can propel more research in the future, because aside from fatwas they also show how different institutions and individuals within the religious bureaucracy interpret Islamic rulings differently, revealing discrepancies between institutional policies (that can contradict state fatwas), and underline the robust room for negotiation when it comes to official religious policies in a secular country.

I must also be clear that despite the nature of my access to materials and people (i.e. the interviewees) related to the fatwa institution, I am not in any way constricted in my freedom to write what I feel is right. This point is demonstrated in my thesis in several ways. My interviews had included the current and former muftis of Singapore who provided useful background and historical information especially on the development of the fatwa committee

⁷⁷ All this cannot be done without the assistance of the Office of the Mufti and MUIS who generously allowed me to conduct my research in a dedicated corner of the MUIS library.

(see Chapter 3). However they were not the only interviewees, as I also interviewed several *asatizah* particularly concerning the regulation of Friday sermons in Singapore mosques (see Chapter 6). I also relied on written materials such as actual fatwas and the minutes of meetings which exhibited the layers of complex state-religious negotiation taking place. While MUIS registered their disagreement over how I interpreted the minutes of meetings, these minutes were clearly cited in my thesis, which demonstrated the freedom I possess to access and analyse these documents and present them here without fear of repercussions.

b. The thesis analyses the **official fatwa processes and unofficial responses**, which showed how fatwas were invoked, and to what extent they can inform, define, and also resist statist restrictions of religious praxis. Statist restrictions are mostly overt and clear measures designed to standardise decision-making processes and outcomes. This is the bureaucratic aspect that fatwa-making certainly abides by. However a deeper examination shows that state fatwas can also resist bureaucratic confines, and these forms of resistance are even found in fatwas that were amended to comply with court judgements. These ‘unofficial responses’ also come in the form of individual rejoinders by members of the Fatwa Committee that challenged state policies and court decisions.

I examined these official and unofficial disputes by exploring various documents including state archives, legal texts and enactments, and court judgements. I also rely on Singapore newspapers especially the Malay-language *Berita Harian* (lit. Daily News) that discusses Malay-Muslim issues, a popular platform for public discussion prior to today’s era of social media. I have to note that while newspapers in Singapore are digitised and indexed online, there is a peculiar restriction in place in which access to more recent decades are not available except via microfilm. So while I can fully read and cite Singapore newspaper articles dated in the 1800s from my home office in the UK, articles from the 1980s onwards can only be accessed by manually combing through microfilms in the National Library of Singapore (one of the reasons why I had to travel to Singapore repeatedly for my fieldwork). These materials found in the local newspaper archives proved immensely useful

because they shed light on the public debate taking place on religious issues, which also demonstrated the traditional-societal authority of fatwas on the Singapore Muslim community.

c. A significant part of the research focuses on how fatwas as a whole are being **recontextualised to suit new purposes**. Examining the change in the function of state fatwas – from non-binding religious answers to benchmarking religious opinions and approving religious teachers – demonstrates how their legal-bureaucratic relevance developed to define and inform Statist Islam. This aspect of my research entails in-depth study and discourse analysis through newspaper archives, legal enactments, and recent social, religious, and political developments.

Examining the functions and limitations of state fatwas reveals the role they play in negotiating, informing, and defining the boundary of acceptable Islamic practice in Singapore. This is conceptualised in what I referred to earlier as Statist Islam.

5.1 Selection of Fatwas

The case studies focus on how state fatwas relate to three key issues in Singapore: state policy, court judgements, and the evolution of fatwas' legal relevance. The common thread between all these issues is that they test the extent of state fatwas' capacity to negotiate state demands through their legal-bureaucratic position, which also reveal state fatwas' continued reliance on their traditional-societal authority.

Exploring the legal-bureaucratic function of state fatwas, their entrenchment in state structures, as well as the extent to which they are able to circumvent and later define this entrenchment, provides useful insights on a secular country that highly regulates domains of contestation. In working within the limited space to contest against state authority, state fatwas rely on their informal traditional-societal authority on the Muslim community as an alternative channel to contest state and legal decisions.

I would like to briefly note that because the fatwa body functions in an authoritarian context, agenda setting is considered in the examination of state fatwas' hierarchical authority in relation to the state. While the case studies that were selected highlighted the 'peaceful competition' that occurred in the authoritarian democracy,⁷⁸ I posit that

⁷⁸ Steven Lukes, *Power: A Radical View*, 2nd ed (Houndmills, Basingstoke, Hampshire : New York: Palgrave Macmillan, 2004), 6.

contestations nonetheless occur as the fatwa institution attempts to assert power and authority within a highly restrictive environment. Drawing upon this point, agenda setting – the second face of power according to Lukes⁷⁹ – is useful in explaining the areas in which state fatwas (and the religious bureaucracy in general) contest the state. Agenda setting naturally relates to the dominant feature of the Singapore state, one that seeks prolong status quo political standing through the close management of domains of contestations.⁸⁰ As a result, the multiple platforms of contestation were constricted from proper democratic competition. Yet in such domains, selected institutions were given – or at least tolerated – a degree of autonomy to exercise their authority. In the case of the fatwa institution, this means that they can assert their authority through religious decrees. This is, as one would expect, contingent on these institutions not crossing the invisible line that marks the boundary of state power.

However, the notion that the state controls everything should be properly scrutinised. Are institutions operating within state bureaucratic hierarchy, or indeed co-opted by the state, only able to affect change within pre-determined domains and issues? And even if we take this point as true, what consequence does this legal-bureaucratic co-optation bring about for their authority in the state? My thesis takes the position that despite the authoritarian nature of the Singapore state, not everything is cast the way the state desires it. The examples that I chose recognise the existing legal-bureaucratic restrictions set by the state yet highlight the various ways in which constant negotiations and contestations take place through state fatwas. In other words, the selection of cases in this thesis underlines important ways in which Singapore state authority is contested, while examining the development of fatwas' authority in modern the state. While I the state might have placed limits for state fatwa institutions, in that they might be restricted from publicly addressing certain topics, the issues which fatwas *can* address demonstrate how these restrictions were exploited to contest state decisions through existing legal-bureaucratic channels. The examination of these

⁷⁹ Lukes, *Power*.

⁸⁰ See for example: Beng Huat Chua, 'Multiculturalism in Singapore: An Instrument of Social Control', *Race & Class* 44, no. 3 (January 2003): 58–77, <https://doi.org/10.1177/0306396803044003025>; Lily Zubaidah Rahim, 'Governing Islam and regulating Muslims in Singapore's secular authoritarian state', Text, Australian Policy Online, 1 October 2009, <http://apo.org.au/node/19184>; Turner, 'Soft Authoritarianism, Social Diversity and Legal Pluralism: The Case of Singapore'; Khong, 'Political Legitimacy through Managing Conformity'.

contestations reveals that negotiations within areas approved by the state can indeed boost the positional authority of co-opted state fatwa institutions.

I argue that this co-optation repositioned not only their positional authority vis-à-vis the Muslim community, but also redefined their role within the state structure, one that significantly places fatwas closely to the centre of the state where decision-making power ultimately lies. I do not claim state fatwas are they completely insulated from state demands, and neither are they skewed such that they simply succumb to state directives. Rather, what I contend here is that stemming from the legal-bureaucratic relevance of fatwas in the modern state, there are structural limitations as well as advantages that must be recognised, which both limit or expand the effectiveness of fatwa institutions' authority against state decisions. The case studies I mention here represent unique opportunities where fatwas contest state authority in Singapore. As these contestations involve the most authoritative Islamic religious instructor in the land (i.e. the fatwa institution), they result in the shaping of a unique religious praxis which embodies the negotiation between state and religious demands. This particularity, which I term Statist Islam, manifests through the way in which Islam is practised, so much so that when examined closely enough it becomes evident that facets of Islamic religious observance in Singapore can be distinguished from its neighbouring countries.

5.1.1 Case Study Set I

I investigated state policies' engagement with state fatwas as a nexus that reveals the latter's bureaucratic relevance. Building on the concept of the autonomous state, the state's petitioning of fatwas is taken as an attempt at legitimising policies. Although the state manages dissent by marking areas where contestations occur, these contestations can yet lead to fascinating consequences and compromises, as this set of case studies pertaining to health issues demonstrates. Two health-related policies with significant social implications are selected here, both of whom were objected by state fatwas.

The first one concerns Singapore's anti-natalist birth policy which introduced incentives as well as controversial penalties for those who intended to have big families. This episode exemplifies the dynamics involved in fatwa-making when state decisions and state fatwas stood on opposite ends of an issue. In essence, both insisted on their respective positions without much consideration for the other party. I will

probe how state fatwas exercised traditional-societal authority against a financially-appealing state policy. This case study can also be representative of other issues where state decisions and fatwas do not see eye to eye. For example, state fatwas' insistence on the compulsory nature of particular religious rituals for Muslims, and opposing state policies that complicate, if not oppose, the observation of these rituals. Therefore, this case study exemplifies parallels behind other instances where state fatwas are at odds with the state.⁸¹

The second case study relates to the Human Organ Transplant Act (HOTA) that automatically assumes organ donation consent from all adult Singaporeans. The organ donation fatwas showed how, when engaged by policymakers, both state policy and fatwas moderated each other's position. While the state created a separate policy for Muslims to accommodate fatwas prohibiting organ donation, state fatwas also evolved over time to eventually permit Muslims to be included in the nationwide organ donation system. Analysing these policies and the policy feedback effect that occurred highlights the dynamics in the negotiation between state and religious interests, and underlines the role of state fatwas in shaping Statist Islam.

5.1.2 Case Study Set II

The second set of case studies examines state fatwas which were later overruled in the civil court. This is important because the Singapore state relies on the legal system as a way to control and manage the diverse religious interests as well as to preserve its own power.⁸² Yet building on the argument of pre-approved spaces of contestation, it becomes apparent that not all legal areas are closed off from disputes, such as Islamic inheritance law.

⁸¹ Those familiar with recent state-religious issues in Singapore might question why I did not choose to examine the hijab controversy, in which the state refuses to allow students and uniformed workers from wearing the hijab. Aside from the fact that no fatwas were issued on the matter, the state has arbitrarily designated the right of Muslim women to wear the hijab as an issue that is closed off from contestations. My research however focuses on issues that are still contestable by fatwas. However, I will still address the hijab controversy in some detail in the concluding chapter.

⁸² Steiner, 'Governing Islam: The State, the Administration of Muslim Law Act (AMLA) and Islam in Singapore'; Li-ann Thio, 'Constitutional Soft Law and the Management of Religious Liberty and Order: The 2003 Declaration on Religious Harmony', *Singapore Journal of Legal Studies*, 2004, 414–43; Li-ann Thio, 'Soft Constitutional Law in Nonliberal Asian Constitutional Democracies', *International Journal of Constitutional Law* 8, no. 4 (2010): 766–99; Li-ann Thio, 'Between Eden and Armageddon: Navigating Religion and Politics in Singapore', *Singapore Journal of Legal Studies*, 2009, 365–405; Jaclyn L Neo, 'Secular Constitutionalism in Singapore: Between Equality and Hierarchy', *Oxford Journal of Law and Religion* 5, no. 3 (2016): 431–56; Turner, 'Soft Authoritarianism, Social Diversity and Legal Pluralism: The Case of Singapore'.

Briefly, estate distribution in Islam covers several instruments, among them Islamic intestate law (*farā'id*, alt. *faraid*), Islamic will (*waṣiyyah*, alt. *wasiat*), and also charitable endowment (*waqf*, alt. *wakaf*). The scope of my research is limited to cases that relates to *farā'id* because of its default status for Islamic estate distribution, consistent with its established position in the Shariah (alt. *Syariah*) as well as AMLA. Therefore the *farā'id* garners a wider practical and religious application than the rest, as shown by the public attention to Singapore court cases challenging *farā'id*.⁸³ *Waṣiyyah* will be addressed in a very limited manner in my case studies. Although *waqf* is another important instrument, its function as a charitable endowment limits its immediate appeal to a smaller, albeit wealthier, demography. Also there were prior studies which examined the Singapore experience in *waqf* and its inter-dependency with various legal, social, economic, and religious considerations, with limited references to fatwas.⁸⁴

This set of case studies therefore examine court cases related to Islamic estate distribution. The court provides a legal platform for members of the society to contest religious authority, and court judgements hold the power to define the legal status of state fatwas. Both the civil court and the fatwa body rely on AMLA – the statute that provides the legal framework for religious administration in Singapore – and these cases highlight their respective positions. In interpreting AMLA, the court drew upon the secular-legal viewpoint, while the Fatwa Committee relied on the religious perspective. The court eventually ruled against these fatwas, but my research does not end with the judgement; I examined how state fatwas circumvented this restriction by asserting their traditional-societal authority through a number of channels including amended fatwas, thus contesting Statist Islam on their own terms.

5.1.3 Case Study Set III

The mushrooming of online websites is strongly reminiscent of the rise of print media in the early 20th century when the ulama saw it as a threat to their position as “guardians of the Revelation”.⁸⁵ The prevalence of online fatwas today, despite stark contextual differences, problematises Islamic legal rulings which tend to fit specific

⁸³ This point will be discussed in Chapter 5.

⁸⁴ Shamsiah Abdul Karim, ‘Contemporary Shari’ah Compliance Structuring for the Development and Management of Waqf Assets in Singapore’, *Kyoto Bulletin of Islamic Area Studies* 3, no. 2 (2010): 143–64; Shamsiah Bte Abdul Karim, ‘Contemporary Shari’ah Structuring for the Development and Management of Waqf Assets in Singapore’, 2010.

⁸⁵ Skovgaard-Petersen, *Defining Islam for the Egyptian State*, 1997, 95.

contexts and localities. This is further compounded by online radical fatwas that call for violence in the name of religion.

The third set of case studies therefore examines how, in an attempt to address challenges posed by radical online fatwas, Islamic religious education is regulated and state fatwas are turned into legal markers of acceptable religious teachings.

The religious bureaucracy took steps to discredit radical foreign fatwas not only by relying on the pulpit, but also making compulsory the registration of all Islamic religious teachers in Singapore. Called the Asatizah Recognition Scheme (ARS), it became legally mandatory for all Islamic religious teachers to be vetted and to undergo training every year. It also introduces a code of conduct that must be adhered to or the accreditation risks getting revoked.

This third case study demonstrates the effects of policy feedback in the expansion of state fatwas' legal-bureaucratic claim, as they become the legal benchmark that defines acceptable religious teachings. This development ultimately underlines a key function of state fatwas in shaping Statist Islam: their transformation into a legal tool to allow or restrict religious content. In effect, this reconfigures the institutional capacity of the state as it now monitors and polices religious classes *according to* fatwas, thus strengthening the position of these official religious decrees in state structures.

5.2 Contribution

This thesis makes a combination of empirical and conceptual contributions. Empirically, I had access to material that is not open to other researchers. The Fatwa Committee's minutes of meetings shed light on an important aspect of the bureaucratisation of religion in Singapore. While some previous studies did cite these fatwa minutes, their scope of examination was almost exclusively limited to theological religious discussions.⁸⁶ Furthermore these studies did not discuss state fatwas in terms of their political causes and consequences; I believe my thesis is the first to examine the politics of fatwas in Singapore.

⁸⁶ Bakaram, 'Theories of Iftā' in Islamic Law with Special Reference to the Shāfi'ī School of Law and Their Application in Contemporary Singapore'; Shamsiah Abdul Karim, 'Contemporary Shari'ah Structuring for the Development and Management of Waqf Assets in Singapore' (PhD Thesis, University of Durham, 2010).

Conceptually, I work within the field of political sociology to expand the concept of policy feedback to other uses. Because policy feedback largely addresses broad-based policies such as economic programmes,⁸⁷ taking the concept and applying it to my case studies demonstrates its potential in explaining niche policies, and in particular how religious demands are negotiated at the state level. Policy feedback is particularly instructive in evaluating how the state and its fatwa institution can be responsive to each other. This helps to explain how the autonomous state, as it attempts to shape religious projects, cannot be completely independent even of its own bureaucratic constituents.

Furthermore policy feedback also allows me to shift away from the common narratives portraying the relationship of religious elites to the state. Through an examination of the demands of religious bureaucrats in state decisions, policy feedback complements the theory of Islamism/post-Islamism to recognise the often-dismissed political role of state-sanctioned religious institutions. Identifying the agency of religious bureaucrats also moderates analyses on religious co-optation which has thus far been rather partial to state elements rather than the co-optees. This essentially bridges between the theory of Islamism/post-Islamism and religious co-optation/bureaucratisation; policy feedback provides vital links in connecting notions of religious activism to state co-optation.

My thesis also unpacks how policy feedback occurs by conceptualising the authority of religious bureaucracy vis-à-vis other actors that it engages with. In relation to the state, I identified legal-bureaucratic authority as the main vehicle that formalises fatwas' relationship to the state. This is due to a combination of factors, namely historical legacy as well as political expediency during the formation of an independent Singapore in 1965. I also identified another form of authority that embodies state fatwas' relation to the Muslim community, and that is their traditional-societal authority that manifests in their role as a form of religious instruction. These types of authority will be further explained in Chapter 2, along with their empirical application in the relevant case study chapters.

⁸⁷ For an overview on policy feedback literature, see: Daniel Béland, 'Reconsidering Policy Feedback: How Policies Affect Politics', *Administration & Society* 42, no. 5 (September 2010): 568–90, <https://doi.org/10.1177/0095399710377444>; Andrea Louise Campbell, 'Policy Makes Mass Politics', *Annual Review of Political Science* 15 (2012): 333–51.

The most significant contribution that this thesis makes is the novel conceptualisation of Statist Islam which recognises as well as qualifies the ‘statist’ element in religious projects to accommodate the role of other actors in informing, shaping, and defining them. Unlike common usage of the term that is restricted to either state-led religious projects or projects to Islamise the state,⁸⁸ my definition takes into account both the agency of the state as well as the demands of the religious bureaucrats. This of course does not mean diminishing the role of other non-state and non-religious elites and actors, rather my thesis examines the particular function of state-linked religious bureaucrats in shaping the religious agenda *despite* these other actors. Statist Islam therefore provides a more nuanced conception of religious projects constricted by statist demands and restrictions, which is especially useful in places where religious institutions are vigorously co-opted by the state.

All these underlines the religious and socio-political roles of state fatwas, useful in comparing the experiences of various countries in Southeast Asia in particular, and the Muslim world in general. State fatwas provide an entry point for the examination of religious bureaucrats through the investigation of state-sanctioned institutions. Also due to the status of the religious bureaucracy as a statutory board, my thesis problematises the presumed acquiescence of similar entities to the government – religious or otherwise – and opens up new avenues of research.

6 Thesis Structure

My thesis focuses on how the co-optation and bureaucratisation of religious institutions allowed state fatwas to negotiate religious interests via policy feedback. This is achieved by assessing state fatwas’ legal-bureaucratic authority which formalises their relationship to the state. Their traditional-societal authority is also examined, as it gives them an important channel to circumvent state restrictions. Beginning with the theoretical and conceptual underpinnings of the research, my argument proceeds by investigating the history of fatwas and the fatwa institution in Singapore which provides the necessary background context for what comes after. It then moves on to the three sets of case studies mentioned earlier that underline the relationship of state fatwas to state policies, court judgements, and recent legal

⁸⁸ Mohamad, ‘Making Majority, Undoing Family: Law, Religion and the Islamization of the State in Malaysia’; Saravanamuttu, ‘Encounters of Muslim Politics in Malaysia’; Saenong, ‘Statist Islam and Folk Islam Ethnohistory and Muslim Practices in Bantaeng’.

developments. I will conclude by providing a brief assessment on the application of Statist Islam in examining fatwas in Malaysia and Indonesia, and highlight the future direction of the research.

Chapter 2 therefore reviews literature pertinent to the analysis of the state and religious bureaucracy. In order to discern the agency of religious bureaucrats, I will synthesise elements derived from literature discussing Islamism and state co-optation of religion. Working within the discipline of political sociology, I will conceptualise the relationship between the autonomous state and the religious bureaucrats through policy feedback. This is linked to the development of religious bureaucracy and the forms of authority that state fatwas and state fatwa institutions possess, which is pertinent in the examination of state projects that co-opt religious elites through the religious bureaucracy. Especially in Singapore where religious elites are endowed with legal-bureaucratic power – arguably an abnormal feature in a secular state – this places them in a difficult position; answering to secular political leaders yet maintaining appeal to the Muslim community. These complexities manifest in the negotiation of secular-religious demands and are subsequently conceptualised in what I call Statist Islam. The combination of these elements is then presented as an analytical framework to approach the empirical chapters that follow.

Next, this thesis outlines the social and political history of the religious bureaucracy in Singapore, with emphasis on the state fatwa institution and the relevant laws and enactments. Chapter 3 thus analyses the broader historical context by looking at the colonial and post-colonial development of the religious bureaucracy in Singapore including two key events whose impact remains salient until today: the 1880 Mohammedan Marriage Ordinance and the 1966 Administration of Muslim Law Act (AMLA). This chapter also provides a more detailed discussion of the fatwa-making process. I argue that the bureaucratisation of religious elites and enactment of Muslim law within the secular legal framework not only regulated religious demands, but also transformed fatwas into legally- and bureaucratically-relevant religious instructions. Fatwas became recognised through AMLA, which then sets out how official religious decrees operate in the Singapore state. The bureaucratisation of Islamic religious institutions, which formalised fatwas' relation to the state, also placed them within state hierarchy and binds them to bureaucratic logic. This consequently sets the tone for state fatwas in contesting and shaping Statist Islam.

After examining the establishment of state fatwas, Chapter 4 investigates their function in interactions with the state. This chapter contains the first set of case studies: how fatwas contest and inform state policies. This is achieved by examining two health policies with deep-seated social impact: family planning and organ transplant. The legal-bureaucratic authority of state fatwas, while enabling them to inform state decisions, remains an unpredictable aspect of fatwas' relation to the state. Meanwhile the traditional-societal authority that state fatwas command over the Muslim community – despite it being unwritten and informal – remains a more reliable form of power even in the modern state setting.

The examination of state fatwas is then expanded to discuss their legal authority. Chapter 5 examines the legal relevance and limitation of state fatwas. I focus in particular on fatwas judged by the court and the consequences as several state fatwas were deemed repugnant to the law. This chapter reconstructs how state fatwas persist in shaping Statist Islam by exercising their traditional-societal authority over court judgements in the aftermath of their legal defeat.

The case studies I mentioned above underlined the extent of state fatwas' legal-bureaucratic relevance and the attendant effects as they rely on more traditional forms of authority. However these cases do not fully capture how these 'restricted' legal-bureaucratic channels can also be exploited to expand the function and authority of fatwas in society. Chapter 6 therefore scrutinises the expansion of fatwas' legal authority. As the internet allows new actors to engage with and challenge state fatwas, the state and religious bureaucracy took legal measures to combat radical decrees by preserving the local brand of religious praxis. These measures demonstrated the extensive reach of state fatwas to legitimise local norms and discredit foreign ones, as their acceptance among religious teachers is formalised through a legal enactment, thus entrenching the role of state fatwas in defining Statist Islam.

The thesis ends with Chapter 7 which re-assesses the analysis given in the earlier chapters and provides brief empirical comparisons to the function of fatwas in neighbouring Malaysia and Indonesia. I will also outline the opportunities and avenues for other researchers to expand and build upon my research.

The objective of this thesis is to provide a deeper understanding of the interactions between religious elites and the modern state today. Many studies cited earlier take

the view that state-sanctioned religious institutions, including the fatwa body, are at the behest of the state. My thesis however will argue that state fatwas are an anomaly in the state bureaucracy; although they rely on state powers to effectively assert religious authority, they exhibit autonomy to express religious demands against the state and its apparatus.

Religious demands that capture attention in the news are usually reduced to those espoused by the likes of the Singaporean militant mentioned at the start of this chapter. However, the response of the state-appointed mufti highlights another interesting story: one that oscillates between the ancient and the modern, balancing between sacred and secular interests. This chapter suggests (as the rest of the thesis affirms) that as the highest religious instructor in the country, the function of state muftis and state fatwas are linked to historical religious tradition, and backed by not only societal relevance, but in the case of Singapore, legal authority and bureaucratic order. This thesis sets out to scrutinise how these contrasting elements are negotiated through state fatwas. The mufti's statement therefore should not be seen as a sole person arguing against radical militancy; it exhibits the persistence of an age-old religious institution in maintaining reverence and relevance in the modern nation-state.

Chapter 2: Religious Co-optation in Authoritarian States: State Fatwas as a Mode of Contestation

1 Introduction

The very nature of fatwas is an exercise of power and authority because they instruct how religion is observed. As a form of religious instruction, fatwas address not only overt religious issues but also Muslim conduct within the larger society, the state, and politics. As I pointed out in the previous chapter, fatwas can be issued by independent muftis as well as those linked to the state. For the latter, modern state muftis are public officials tied through bureaucratic connections and recognised through legal provisions.

Given how fatwas can have a legitimating effect, they therefore represent a crucial way of managing state-Islam relations. They are also highly sought after by political authorities, evident in how the fatwa institutions of many countries today are closely managed by the state.⁸⁹ The combination of traditional religious authority, together with legal and bureaucratic relevance in the modern nation-state is what makes state fatwas and fatwa-making a politically interesting topic; as state fatwas become coveted instruments of legitimacy, they can get invoked to justify state decisions. However state fatwas can also retain their role as a mode of religious contestation against state demands.

The purpose of this chapter is to provide a conceptual synthesis that builds on literature explaining the rationality of the state, religious elites and institutions, and the dynamics of their authorities, culminating in a localised version of religious practice i.e. Statist Islam. It offers the empirical, theoretical, and conceptual basis for examining the functions of state-sanctioned religious elites. This will provide an analytical framework for what comes in later chapters: the development of the fatwa institution, the function of fatwas and its evolution, and how exactly state fatwas affect the state and society. By highlighting the relational authority of state fatwas – i.e. the different authority they invoke in relation to other actors – I will explain how their relevance and reverence are asserted, and will conceptualise the relationship between

⁸⁹ Skovgaard-Petersen, *Defining Islam for the Egyptian State*, 1997; Skovgaard-Petersen, 'A Typology of State Muftis'; Haddad, 'Operation Desert Storm and the War of Fatwas'; Hooker, 'Syariah Law in Contemporary Indonesia and Malaysia'; Timothy Lindsey and Kerstin Steiner, *Islam, Law and the State in Southeast Asia: Singapore*, vol. II (London; New York: I.B. Tauris, 2012).

the state and religious elites. This emphasis on relational authority is, of course, not to be confused with their positional authority. Positional authority is the advantageous position state fatwas gain by virtue of being bureaucratically and legally connected to the state, which also elevates their traditional-societal standing in the Muslim community.

This chapter explores the role state fatwas play in mediating state-societal relations, and in doing so, I identify key patterns of Islamic politics that emerge. Beginning with Islamism – a perspective that evaluates the agency of religious elites in Muslim-majority countries and therefore particular to the mainly Middle-Eastern experience – I will then shift my attention to Southeast Asia to examine the manifestation of state control of religious institutions. Even in different settings, we see similar themes where religious elites (including the fatwa body) come into the fold of the state. My concept will synthesise elements inspired by Islamism (which recognises the agency of religious elites) and state co-optation of religion (that identifies the association of religious elites to the state). It will therefore provide a more complete picture on the dynamics of state-sanctioned fatwas.

The chapter will be organised as follows. I shall begin by examining in some detail the two empirical notions that are central to the development of my conceptual framework: Islamism and state co-optation of religion. The consideration of both Islamism and state co-optation of religion – the former examining the agency of non-state religious elites and the latter discussing religious bureaucracy in the modern state – results in a synthesis that identifies the agency of co-opted religious elites. This is then drawn together into an analytical framework. The key components of the framework begin with a neo-Weberian standpoint in political sociology, in which the state is conceptualised as an autonomous actor that actively regulates religious affairs. The degree of state autonomy here is contingent on various factors (or “structural potentials”)⁹⁰ which allow the state to exercise its demands over other actors. In the context of authoritarian Southeast Asian states, this research examines the extent of state autonomy and how it is resisted. ‘Policy feedback’ is then invoked to conceptualise the malleability of state decision to other demands and interests. This explains how state policies can lead to unintended consequences for the state, in this

⁹⁰ Skocpol, ‘Bringing the State Back In: Strategies of Analysis in Current Research’, 14.

case how the regulation of religious affairs increased the capacity of state fatwas to affect state decisions. The next part breaks down *how* state fatwas exercise policy feedback vis-à-vis the state. This is done by identifying the types of authority that manifest in state fatwas: legal-bureaucratic authority and traditional-societal authority. All these investigations culminate in a concept I call Statist Islam which refers to the outcome of both the intended and unintended negotiations within the legal and bureaucratic restrictions set by the autonomous state.

2 Fatwas as a Mode of Contestation Against the State

Fatwas represent a long-standing tradition in Muslim orthopraxy and orthodoxy that remains persistent throughout changes not only in time, but also in different political milieus.⁹¹ Many governments in Muslim-majority countries today have created or supported the establishment of fatwa institutions to provide state-sanctioned religious instruction for Muslims. The state-fatwa link is not a contemporary development as the seat of the mufti became public office circa the tenth century CE.⁹² For centuries, muftis have had prominent roles in the government as juriconsults and *mawlawis* (men of learning), so much so that qadis or judges refer to compilations of fatwas as reference for their judgements.⁹³ Masud and others noted:

...the position of muftīs in Muslim political systems was defined by the role fiqh (Islamic jurisprudence) enacted in that society. In Andalusia, jurists were indeed powerful, because they were part of the *shūrā* (council) of amīrs and caliphs, whereas in the Ottoman and Mughal political systems, the chief muftī was designated as Shaykh al-Islam. Muftīs were also appointed to various other positions, including market inspectors, guardians of public morals, and advisors to governments on religious affairs.⁹⁴

Muftis are often compared to qadis whose function, by passing judgements in the courtroom, defines and instructs a religious position.⁹⁵ However the fatwa of a mufti

⁹¹ Masud, Messick, and Powers, *Islamic Legal Interpretation*; Skovgaard-Petersen, *Defining Islam for the Egyptian State*, 1997; William Roff, 'Whence Cometh the Law? Dog Saliva in Kelantan, 1937', *Comparative Studies in Society and History* 25, no. 2 (1983): 323–38; Hooker, *Indonesian Islam*.

⁹² 'Ifta'; Bulliet, 'The Shaikh Al-Islām and the Evolution of Islamic Society'.

⁹³ Muhammad Khalid Masud et al., 'Fatwā', in *The Oxford Encyclopedia of the Islamic World*. *Oxford Islamic Studies Online*, n.d., <http://www.oxfordislamicstudies.com/article/opr/t236/e0243>.

⁹⁴ Masud et al.

⁹⁵ It is relevant to note that while a fatwa addresses a wide range of issues, the consideration behind one is said to be less than that of a court judgement. As-Subkī, the chief judge in 13th century CE in Damascus argued: "[The qadi] is more specialised than the rank of the mufti. For the judge considers

extends beyond the confines of a court. As a form of religious instruction, fatwas address a range of issues from the most basic of acts of worship to political behaviour, which makes them even more pervasive than court judgements.

Therefore it is not surprising that many governments of Muslim-majority countries seek to regulate or manage fatwas. After all, the role of fatwas in regulating religious behaviour can also lend a legitimating quality to the state. The regulation of fatwas occurs through the bureaucratisation of religious institutions, which typically includes a fatwa-issuing body. The religious bureaucracy is then linked to the state, a typical form of co-optation in many Muslim-majority countries such as Egypt, Pakistan, Saudi Arabia, Malaysia, and many others.⁹⁶

While having a fatwa body on its side can legitimise a government, it does not necessarily protect it from religious criticism. This is because fatwas can be issued not only by state-appointed muftis, but almost any ulama or religious organisation. One relevant example could be observed during the first Gulf War when Middle-Eastern countries allied to the United States (US) had supported the military action in Iraq. The allies' position gained the support of many state fatwa bodies of these countries, which provided (or at least attempted to provide) religious justification for the war. Meanwhile fatwa bodies of countries which were not allied to the US, as well as independent organisations, were shown to have issued fatwas *against* the US-led action.⁹⁷

The differences between these fatwas – those in support of or those against the war – demonstrated how Islamic politics play out in the dynamics of Muslim-majority countries. They reveal the fault lines among the dominant religious elites in the Middle East. Haddad identifies two key types of religious elites through these fatwas: Fatwas in support of the American invasion of Iraq were mainly issued by state-sanctioned

precisely the particular matters that the mufti considers, plus the establishment of their causes, the rejection of opposition, and so on. Matters become evident to the qadi which are not evident to the mufti. Hence the consideration of the qadi is wider than that of the mufti, and that of the mufti is wider than that of the *faqih* (jurist). But the *faqih*'s consideration is the most noble and of most general benefit." Quoted in Norman Calder, *Islamic Jurisprudence in the Classical Era*, ed. Colin Imber (New York: Cambridge University Press, 2010), 121.

⁹⁶ Skovgaard-Petersen, *Defining Islam for the Egyptian State*, 1997; Nasr, *Islamic Leviathan: Islam and the Making of State Power*; Joseph A. Kechichian, 'The Role of the Ulama in the Politics of an Islamic State: The Case of Saudi Arabia', *International Journal of Middle East Studies* 18, no. 01 (February 1986): 53–71, <https://doi.org/10.1017/S002074380003021X>; Hooker, 'Syariah Law in Contemporary Indonesia and Malaysia'.

⁹⁷ Haddad, 'Operation Desert Storm and the War of Fatwas'.

muftis, while fatwas that opposed it were generally issued by Islamists.⁹⁸ I have previously discussed to some extent religious elites who were co-opted by the state, and I will also explain more about them later in this chapter. The Islamists, meanwhile, deserve some attention as I will elaborate below.

2.1 The Islamists

Islamists are proponents of Islamism. This is of course a key concept that relates to studies of Political Islam, which frame “Muslim politics” in a way that accounts for the “social relationships between actors, symbols, and structures.”⁹⁹ As a concept, Islamism seeks to specifically explain political activism through Islamic religious movements. A vital feature of Islamism is the control of political positions to enable top-down implementation of Islamic values, ideals, and law. A key writer on the topic, Asef Bayat, defines Islamism as:

“...Ideologies and movements that strive to establish some kind of an “Islamic order” – a religious state, shari`a law, and moral codes in Muslim societies and communities. Association with the state is a key feature of Islamist politics.”¹⁰⁰

Bayat’s definition is representative of works by other authors.¹⁰¹ A key claim of Islamism is that religious change should come from state authority, which is why political power is an imperative objective. Bayat notes that Islamism should be seen “in terms of a systematic attempt from above to Islamicize society and the economy”.¹⁰² Another key scholar, Olivier Roy also sees Islamism as a project that promotes “Islamization from the top down”,¹⁰³ and as such Islamisation projects will have to come through the state.¹⁰⁴ Islamism therefore asserts a crucial aspect of how this particular set of religious elites engage with the state: it employs a state-centric perspective of how religious activism manifests. Islamists are expected to engage in political confrontations in order to capture state power as the ultimate objective is

⁹⁸ Haddad.

⁹⁹ Peter Mandaville, *Global Political Islam* (London: Routledge, 2010), x.

¹⁰⁰ Bayat, *Post-Islamism*, 4.

¹⁰¹ Roy, *The failure of political Islam*, 36; Kepel, *Jihad*, 23. Volpi and Mozaffari disagree on what Roy means by Islamism. According to Volpi, it is the same as Political Islam, while Mozaffari posits that Roy designates Political Islam a failed project, whereas Islamism denominates a new form of activist Islam. Compare Volpi, *Political Islam Observed*; Mehdi Mozaffari, ‘What Is Islamism? History and Definition of a Concept’, *Totalitarian Movements and Political Religions* 8, no. 1 (March 2007): 17–33..

¹⁰² Bayat, ‘The Coming of a Post-Islamist Society’, 44.

¹⁰³ Roy, *The failure of political Islam*, 24.

¹⁰⁴ Olivier Roy, *Secularism Confronts Islam* (New York: Columbia University Press, 2007), 58.

Islamisation through the state. As such, discussions on Islamism almost exclusively focus on religious actors who engage the state via electoral politics and even militancy.¹⁰⁵ Peculiarly, these discussions do not include religious bureaucrats as Islamists.

There is another related theory to complement Islamism, and that is Post-Islamism. Post-Islamism can be summed up as an alternative to Islamism; instilling religiosity not through the conventional method of capturing political power to Islamise the society, but through means such as civil society, media, business, and various other channels.¹⁰⁶ However this comes with an important distinction, and that is that Post-Islamism argues the ultimate goal is not the Islamic state, rather it is the observation of religiosity at the individual level.¹⁰⁷ In other words, while Islamism posits the relevance of religious political parties *because* the objective is the implementation of religion through the state, Post-Islamism places little emphasis on the political *because* the objective is the individual observance of religion.

Both theories differ on several key issues, mainly the implementation of Islamic law, which is a major subject in Islamism as its proponents believe that it could only be implemented with political authority. Post-Islamism, while not necessarily demoting state-level implementation of Shariah to lesser importance, emphasises on the religious development of the individual. Post-Islamism therefore depicts the readiness of religious actors in Islamising the society by pushing for religiosity in domains which do not directly interfere with political powers.

Even at the onset, these distinctions are fluid because these individual or structural goals can be interchangeable. However both forms of the theory underline the same limitation: that the overarching power of the state is somewhat insulated from the demands of religious elites. In literature concerning Islamism, state-linked clerics are simply referred to as the ‘ulama’,¹⁰⁸ a term that literally means Islamic religious scholar. Although the state-linked ulama are religious activists in their own right and

¹⁰⁵ Bayat, *Post-Islamism*, 5; Kamran Bokhari and Farid Senzai, *Political Islam in the Age of Democratization*, Middle East Today (New York: Palgrave Macmillan, 2013); Tamara Cofman Wittes, ‘Islamist Parties: Three Kinds of Movements’, *Journal of Democracy* 19, no. 3 (July 2008): 7–12; Roy, *The failure of political Islam*; Roy, *Secularism Confronts Islam*.

¹⁰⁶ Bayat, *Post-Islamism*.

¹⁰⁷ Uğur Kömeçoğlu, ‘Islamism, Post-Islamism, and Civil Islam’, *Current Trends in Islamist Ideology* 16–32 (2014).

¹⁰⁸ Kepel, *Jihad*, 56–57.

by definition should be categorised as Islamists, observers of Islamism differentiate between the two. Roy locates the point of departure between them on two issues: the servility of state-linked ulama to the powers in place – which leads them to “accept a secular government” and “laws that do not conform to the sharia” – and their compromise with Western modernity.¹⁰⁹ He describes the demands of state-linked ulama as a “complete and total implementation of the sharia, without regard to the nature of the political system”.¹¹⁰ This is in contrast to Islamists who desire “to end the division of power that has traditionally existed in the Muslim world between the de facto sovereign and a class of ulamas who oversee the law without involving themselves into matters of power”.¹¹¹ Because of the emphasis on Islamists as an opposition to the state, those who do not share the Islamist goal of state control – including the religious bureaucrats or ‘ulama’ – are relegated to a peripheral element of state-religious relationship, or even as an extension of the state and propagators of “official Islam”.¹¹² In sum, although the Islamists and state-linked ulama have essentially similar objectives in that they desire a form of Islamic order, they are distinguished by how this order is defined. For the Islamists, the Islamic order requires the reformation of the political system, while for the ulama serving in state-appointed positions the Islamic order can function somewhat independently of the political system.

As a result, religious elites who co-operate with the state are, at best, seen as functioning within state-approved parameters, and this makes them no different than other state actors. However in examining state-religious dynamics, I argue that these religious bureaucrats play a crucial role in shaping how religion manifests in the state. Even as these state-linked ulama are acknowledged to advance some form of Shariah law within parameters set by the state,¹¹³ it does not mean that these attempts necessarily remain within these set parameters, nor that they deserve less attention.

This is not to say that Islamism could not accommodate the various types of religious actors who seek to contest, or at the very least negotiate their political roles with the

¹⁰⁹ Roy, *The failure of political Islam*, 37.

¹¹⁰ Roy, 29.

¹¹¹ Roy, 42.

¹¹² Amira El Azhary Sonbol, *The New Mamluks: Egyptian Society and Modern Feudalism* (Syracuse University Press, 2000), 182.

¹¹³ Roy, *The failure of political Islam*, 29.

state. For example in examining the wide degree in which Islamist actors attempted to merge themselves with regime institutions, writers such as Zeghal argue that even conventional Islamists can take less confrontational approaches as they engage with the authoritarian state.¹¹⁴ The broader arguments contend that such Islamists avoided the ‘rejectionist paradigm’ commonly demonstrated that pits state-religious demands against one another,¹¹⁵ and instead opt for a more participatory ‘accommodationist posture’ that allows them to gradually gain a foothold within state structures.¹¹⁶ What this means is that Islamists *can* be co-opted by the state which then cements their political power in the state. If this was recorded in the case of conventional Islamist political parties in the Middle East, then shouldn’t the same be expected of a loosely-tied group of religious scholars who have never clearly espoused affiliation to a religion-based political party?

It is therefore not a surprise that the definition of Islamists has been broadened to cover not only political parties, but also individual ulama who have been absorbed in, or indeed co-opted by, the state.¹¹⁷ While this categorisation is convenient, it is prudent to exercise caution here; while associating these two types of actors as one might suggest their bureaucratic link to the state, there remains a clear difference between the goals and functions of Islamists, and the ulama who are working within state-linked institutions (as Roy explained above).

As such, a more cautious approach would be to identify each of them as a set of unique actors. I seek to avoid the conflation of the demands of the various religious actors – be it through political parties or co-opted religious institution – and avoid Islamism as

¹¹⁴ Malika Zeghal, *Islamism in Morocco: Religion, Authoritarianism, and Electoral Politics* (Princeton: Wiener Publ, 2008); Mohamed Daadaoui, ‘Islamism and the State in Morocco’, Hudson Institute, 29 April 2016, <http://www.hudson.org/research/12286-islamism-and-the-state-in-morocco>; Avi Spiegel, ‘Succeeding by Surviving: Examining the Durability of Political Islam in Morocco’, *Brookings Institution*, 2015.

¹¹⁵ Daadaoui, ‘Islamism and the State in Morocco’.

¹¹⁶ Spiegel, ‘Succeeding by Surviving: Examining the Durability of Political Islam in Morocco’ Spiegel was looking at the Islamist experience in Morocco, where the state stipulated that Islamist political parties can participate in elections as long as they do not challenge the king’s role as the ‘Commander of the Faithful’, a term that denotes his leadership and legitimacy over religious and political affairs. There are several other regulations in which Islamists have to abide by, such as not campaigning in mosques and accepting constitutional amendments that, while allowing the Islamist party to take positions of power, also constrained its function at the behest of the king. Amidst all these changes that are designed to consolidate power to the status quo while co-opting Islamists, the latter still shows autonomy by challenging the king in various political issues.

¹¹⁷ Fuller, *The Future of Political Islam.*; Donald K Emmerson, ‘Inclusive Islamism: The Utility of Diversity’, *Islamism: Contested Perspectives on Political Islam*, 2010, 17–32.

a conceptual tool to explain the agency of state-linked religious elites. While both desire some form of Islamic order, they are still very distinct because of the difference of what constitutes an Islamic order for them. As a result, their methods for achieving these objectives also differ; while one aims to capture state power, the other regards state power as an incidental element. Furthermore, my research moves beyond the bureaucratic relationship between religious actors and the state, and examine the degree of co-optation and its consequences on religious authority and localised religious praxis.

Clearly the state-linked ulama have a political function, and even more so they must be accorded some form of agency. But how do we analyse this? While the agency of religious political parties can be explained through Islamism, the concept is too restrictive to assess the political role of state-linked religious elites. It is therefore important to acknowledge the distinctiveness of these ‘state’ ulama. I propose that this distinctiveness cannot be reduced to ambiguous notions such as ‘Islamic state’ or ‘Islamic order’, especially when discussing their function *within* the modern nation-state. Rather a more sensible way would be to analyse particular issues concerning religion, specifically those that necessitate direct engagements with the state. Therefore in examining the political role of religious bureaucrats, it is crucial to identify the nature of their relationship to the state. This is done by assessing the recognition given to them by the state; i.e. the legal-bureaucratic function of these state-linked ulama, and how this allows negotiation and resistance to occur. In order to do this, I have to shift my focus on literature examining the relationship between the state and religious bureaucrats. This brings me to Southeast Asia.

2.2 Southeast Asian Co-optation

State fatwas represent an important mode to assert religious demands. This is not only seen in the Middle East – as I have discussed above – but also Southeast Asia where state fatwas can publicly support or discredit a religious position. Here, one of the popular incidents involving state fatwas occurred in 1937 when the Raja of Kelantan in Malaysia wanted to keep his Dalmatian hound. However he was opposed by his sister who held the view that dogs are unclean and therefore keeping them as pets is not permissible. The sister’s view is also the mainstream Muslim position in Southeast Asia, which was why the issue garnered public interest. But the state fatwa in Kelantan decreed that the Raja was allowed to keep his dog. This fatwa was challenged and led

to a public debate involving local and overseas ulama. The outcome of the debate was however inconclusive, and eventually Al-Azhar – the Islamic authority in Egypt – was asked to issue a fatwa which ended in favour of the Raja and his Dalmatian.¹¹⁸ The event demonstrated the central role fatwas play in regulating day-to-day issues; even the royal family who ruled over Kelantan required a fatwa to justify the keeping of dogs as pets. There were also occasions when state fatwas were issued on more serious matters, such as against religious reformists known as *Kaum Muda* (Young Faction) who were inspired by their Middle-Eastern counterparts. These reformists condemned the religious practices and beliefs of the local Muslim community at the time, which they deemed unauthentic.¹¹⁹ They also criticised the rulers and the traditional religious institutions. As a response to defend the status quo, state fatwas were issued against the *Kaum Muda* and new laws were put in place to restrict reformist teachings and publications.¹²⁰

Despite the powerful role that the religious bureaucracy and state fatwas exhibited in regulating religious affairs, literature on Southeast Asia tends to overlook the nuances of religious co-optation, namely the agency of religious bureaucrats and the politics of their resistance against the state. In Political Science, many writers tend to take an instrumentalist view of the religious bureaucracy as a tool to prop up state legitimacy.¹²¹ This is, however, understandable; as the authoritarian state takes drastic measures to maintain power and control over the society, it also regulates avenues where political contestations can occur. This leads to the co-optation of societal actors and organisations within the fold of the state. In Muslim-majority Southeast Asian

¹¹⁸ Roff, 'Whence Cometh the Law? Dog Saliva in Kelantan, 1937'. Also Roff, 223-229 in *Islamic Legal*.

¹¹⁹ RAA Rahim, 'Traditionalism and Reformism Polemic in Malay-Muslim Religious Literature', *Islam and Christian-Muslim Relations* 17, no. 1 (1 January 2006): 93–104, <https://doi.org/10.1080/09596410500400090>.

¹²⁰ Rahim, 95–96.

¹²¹ Jason P. Abbott and Sophie Gregorios-Pippas, 'Islamization in Malaysia: Processes and Dynamics', *Contemporary Politics* 16, no. 2 (June 2010): 135–51; Judith Nagata, 'Religious Ideology and Social Change: The Islamic Revival in Malaysia', *Pacific Affairs* 53, no. 3 (1980): 405–39; Judith Nagata, 'Authority and Democracy in Malaysian and Indonesian Islamic Movements', in *Islam and Politics in Southeast Asia*, ed. J Saravanamuttu (London; New York: Routledge, 2010), 18–44; Meredith Weiss, *Protest and Possibilities: Civil Society and Coalitions for Political Change in Malaysia*, *Contemporary Issues in Asia and the Pacific* (California: Stanford University Press, 2006).

countries, these co-optations are embodied in the creation of the religious bureaucracy,¹²² which includes state fatwa institutions.

It is here that we should pause to clarify the term co-optation that I am using in this thesis. Co-optation here is defined as the act of including an entity into the decision-making structure of a more powerful entity. In such a relationship, the co-optees are expected to acquiesce to the demands of the larger group.¹²³ Selznick, credited for the coining the term, posited that co-optees do not gain any actual power or decision-making capacity in the relationship.¹²⁴ He identified two types of co-optation: formal and informal co-optation. Formal co-optation can be understood as co-opting a weaker element in making decisions, while informal co-optation occurs when co-opting a strong element that is then restricted in the decision-making process. In other words, Selznick sees co-optation as a one-way street in which the co-opted are ultimately ineffectual to make decisions. Although not without his critics,¹²⁵ Selznick opened the way to analyse an important facet of bureaucratic relationship between groups with competing objectives.

It is perhaps no surprise that due to the nature of relationship between the co-opter and co-opted, co-optation is observed to result in the reduction of the latter's autonomy,¹²⁶ hinder protests that challenge the co-opter's legitimacy,¹²⁷ as well as impede the co-optees' authority as they focus on maintaining this bureaucratic relationship rather than obtaining new advantages.¹²⁸ Yet it is just as important to note that co-optation

¹²² Liow, *Piety and Politics: Islamism in Contemporary Malaysia*; Steiner, 'Governing Islam: The State, the Administration of Muslim Law Act (AMLA) and Islam in Singapore'; Abdullah, 'Religious Representation in Secular Singapore'; Müller, 'Sharia Law and the Politics of "Faith Control" in Brunei Darussalam: Dynamics of Socio-Legal Change in a Southeast Asian Sultanate'; Nasr, *Islamic Leviathan: Islam and the Making of State Power*.

¹²³ Alexa J Trumpy, 'Subject to Negotiation: The Mechanisms behind Co-Optation and Corporate Reform', *Social Problems* 55, no. 4 (2008): 480.

¹²⁴ Philip Selznick, *TVA and the Grass Roots: A Study in the Sociology of Formal Organization*, vol. 3 (Univ of California Press, 1949).

¹²⁵ Jeff Collmann, 'Clients, Cooptation and Bureaucratic Discipline', *Social Analysis*, no. 9 (1981): 48–62; Trumpy, 'Subject to Negotiation: The Mechanisms behind Co-Optation and Corporate Reform'; Michael David Dueñas, 'Communication Cadres: Leaders, The Control of Communication, and Co-Optation.', 2014.

¹²⁶ Hanspeter Kriesi, 'The Organizational Structure of New Social Movements in a Political Context', *Comparative Perspectives on Social Movements*, 1996, 152–84.

¹²⁷ Ora John Reuter and Graeme B. Robertson, 'Legislatures, Cooptation, and Social Protest in Contemporary Authoritarian Regimes', *The Journal of Politics* 77, no. 1 (January 2015): 235–48, <https://doi.org/10.1086/678390>; Trumpy, 'Subject to Negotiation: The Mechanisms behind Co-Optation and Corporate Reform'.

¹²⁸ William A. Gamson, *The Strategy of Social Protest*, 2nd ed (Belmont, Calif: Wadsworth Pub, 1990); Robert J Brulle and J Craig Jenkins, 'Foundations and the Environmental Movement:

cannot be taken as a uniform manner of interaction, rather it occurs at varying degrees,¹²⁹ and therefore has been examined through the lens of cooperation,¹³⁰ or even revolution.¹³¹ In this sense, co-optation is far from inflexible and rigid, but represents a form of adaptable and fluid relationship between two entities that are linked through bureaucratic arrangement.

My use of co-optation here can further be narrowed down to a specific form, in particular what Collman terms the “imposition of bureaucratic discipline” that defines clear lines and boundaries,¹³² in this case between the state and the fatwa-issuing body. Despite co-optation being used to signify a relationship with power imbalance, the consequences of negotiation and compromise should not be overlooked. To address this, my thesis investigates *how much* of the co-optees’ autonomy is retained in such a relationship, how they can preserve their capacity to change collective decisions, and the expansion or contraction of authority through this arrangement. With this in mind, the co-optation that I describe between the Singapore state and state fatwas here, while taking into consideration what is best termed an asymmetrical power imbalance,¹³³ makes the case that state-religious relationship results in the establishment and expansion of fatwas’ relevance in state structures. Therefore while co-optation does correctly describe how the state relates to fatwas especially through legal-bureaucratic recognition, this tells only of one aspect of the relationship and a small part of the full story. This is why my thesis title refers to the *consequences* of co-optation; how legal-bureaucratic authority is reshaped through the co-optation of state-sanctioned fatwas. My thesis reveals that as state fatwas became the reference point for Islamic religious instruction, their expertise and positional authority can also affect state decisions; the co-optation of religious elites into the religious bureaucracy enabled the co-optees to expand their legal-bureaucratic authority in state structures. This is in addition to the inherent traditional-societal authority of state fatwas that is amplified through its

Priorities, Strategies, and Impact’, *Foundations for Social Change: Critical Perspectives on Philanthropy and Popular Movements*, 2005, 151–73.

¹²⁹ Graziella Bertocchi and Michael Spagat, ‘The Politics of Co-Optation’, *Journal of Comparative Economics* 29, no. 4 (2001): 591–607; Jennifer Gandhi and Adam Przeworski, ‘Cooperation, Cooptation, and Rebellion under Dictatorships’, *Economics & Politics* 18, no. 1 (2006): 1–26.

¹³⁰ Dueñas, ‘Communication Cadres: Leaders, The Control of Communication, and Co-Optation.’

¹³¹ Erin Hannah, Holly Ryan, and James Scott, ‘Power, Knowledge and Resistance: Between Co-Optation and Revolution in Global Trade’, *Review of International Political Economy* 24, no. 5 (3 September 2017): 741–75, <https://doi.org/10.1080/09692290.2017.1324807>.

¹³² Collmann, ‘Clients, Cooptation and Bureaucratic Discipline’, 58.

¹³³ Abdullah, ‘Religious Representation in Secular Singapore’, 1200.

relationship with the state (as I will explain later in this chapter, as well as in Chapters 3 and 4). As a result, co-optation does not only impact the decisions of the co-opted, but also the co-opter, i.e. the state.

The co-optation of religion and religious institutions is not a phenomenon unique to Singapore, of course. Among its neighbouring countries in Southeast Asia, religious co-optation takes various forms. In Buddhist Thailand, the co-optation of the sangha is a key project that gave legitimacy to political elites.¹³⁴ Similar observations were recorded in Myanmar and Cambodia.¹³⁵ Meanwhile in Muslim-majority Indonesia and Malaysia, the instrumentalisation of religion for political support is also a common observation.¹³⁶ A considerable number of studies which sought to trace the Islamisation of the Malaysian polity since the 1980s – which includes the expansion of the religious bureaucracy and the development of national religious programmes – largely attributed the phenomenon to political actors competing for the Malay vote.¹³⁷ Mobilising Islam and Buddhism in Southeast Asia was even compared to how secularism was invoked in the West for political gains.¹³⁸

¹³⁴ Kikue Hamayotsu, 'Beyond Doctrine and Dogma: Religion and Politics in Southeast Asia', *Southeast Asia in Political Science: Theory, Region, and Qualitative Analysis*, Stanford, Calif, 2008, 175.

¹³⁵ Charles F. Keyes, 'Buddhism and National Integration in Thailand', *The Journal of Asian Studies* 30, no. 3 (May 1971): 551–67, <https://doi.org/10.2307/2052460>; Duncan McCargo, 'The Politics of Buddhist Identity in Thailand's Deep South: The Demise of Civil Religion?', *Journal of Southeast Asian Studies* 40, no. 1 (February 2009): 11–32, <https://doi.org/10.1017/S0022463409000022>; Juliane Schober, *Modern Buddhist Conjunctures in Myanmar: Cultural Narratives, Colonial Legacies, and Civil Society* (Honolulu: University of Hawai'i Press, 2011); Bilveer Singh, 'Religion as a Political Ideology in Southeast Asia', in *The Politics of Religion in South and Southeast Asia*, ed. Ishtiaq Ahmed (Abingdon, Oxon; New York: Routledge, 2011), 120–35.

¹³⁶ Liow, *Piety and Politics: Islamism in Contemporary Malaysia*; Farish A Noor, *Islam Embedded: The Historical Development of the Pan-Malaysian Islamic Party PAS (1951-2003) Vol. 1*. (Kuala Lumpur: Malaysian Sociological Research Institute, 2004); Singh, 'Religion as a Political Ideology in Southeast Asia'.

¹³⁷ Abbott and Gregorios-Pippas, 'Islamization in Malaysia'; Nagata, 'Religious Ideology and Social Change: The Islamic Revival in Malaysia'; Nagata, 'Authority and Democracy in Malaysian and Indonesian Islamic Movements'; Weiss, *Protest and Possibilities: Civil Society and Coalitions for Political Change in Malaysia*; Liow, *Piety and Politics: Islamism in Contemporary Malaysia*.

¹³⁸ Hefner, 'Islamization and Democratization in Indonesia'; Hamayotsu, 'Beyond Doctrine and Dogma: Religion and Politics in Southeast Asia', 174; It is pertinent to note another stream of thought strongly influenced by Talal Asad that categorically opposes any such comparisons. He argued that religion as separate aspect of social life is a modern Western construct and therefore not a suitable concept to describe Islam, or even premodern Christianity. See: Talal Asad, *Genealogies of Religion: Discipline and Reasons of Power in Christianity and Islam* (Baltimore: Johns Hopkins University Press, 1993); Ovamir Anjum, 'Islam as a Discursive Tradition: Talal Asad and His Interlocutors', *Comparative Studies of South Asia, Africa and the Middle East* 27, no. 3 (2007): 656–72.

Many observers rightly regard the state as the key actor behind state-driven religious projects.¹³⁹ While there is some truth in this, such a narrative risks neglecting the role of religious bureaucrats in shaping state-linked religious agendas. Increasingly, there are studies that have begun to shed more light on the function of co-opted religious elites. Mohamad, for instance, credits state-sanctioned religious projects to religious bureaucrats who were co-opted by the state.¹⁴⁰ As political actors expand the power of religious institutions to shore up state legitimacy, this elevates the role of religious elites in state bureaucracy and perpetuates more state-sanctioned religious programmes. This also mediates the position of the religious bureaucracy between the state and society, and “imbricated” the role of religious institutions in politics.¹⁴¹ Peletz, who wrote on the Shariah court in Malaysia, argues that the state-linked religious institution proved helpful in negotiating and compromising between contradictory societal and cultural discourses. Shariah courts promote the foundations for a Malaysian-styled civil society while presenting themselves as a strategic loci of modernity projects.¹⁴² These observations indicate how the co-optation of religious institutions serves new purposes that go beyond the simple outcome of religious control by the state. The relevance of co-opted religious institutions is then preserved via legal measures. Kamali – in addressing Islamic law reforms in Malaysia – highlights how some Malaysian states enforced strict laws to ensure adherence to state fatwas, and in extreme cases those found propagating religious opinions contrary to them could face fine and jail sentences.¹⁴³ This development, along with several examples of Islamic law amendments in Malaysia, accrued more authority to state fatwas, and preserved the relevance of religious institutions. More importantly, these

¹³⁹ Hamayotsu, ‘Islam and Nation Building in Southeast Asia’; Liow, *Piety and Politics: Islamism in Contemporary Malaysia*; Steiner, ‘Governing Islam: The State, the Administration of Muslim Law Act (AMLA) and Islam in Singapore’; Steiner, ‘Madrasah in Singapore: Tradition and Modernity in Religious Education’; Hooker, ‘Syariah Law in Contemporary Indonesia and Malaysia’.

¹⁴⁰ Mohamad, ‘The Ascendance of Bureaucratic Islam and the Secularization of the Sharia in Malaysia’.

¹⁴¹ Michael Peletz, ‘Islam and the Cultural Politics of Legitimacy: Malaysia in the Aftermath of September 11’, in *Remaking Muslim Politics: Pluralism, Contestation, Democratization*, ed. Robert Hefner (Princeton N.J.: Princeton University Press, 2005), 240–71.

¹⁴² Michael Peletz, *Islamic Modern: Religious Courts and Cultural Politics in Malaysia*, Princeton Studies in Muslim Politics (Princeton, N.J.: Princeton University Press, 2002).

¹⁴³ Mohammad Hashim Kamali, ‘Islamic Law in Malaysia: Issues and Developments’, *Yearbook of Islamic and Middle Eastern Law Online* 4, no. 1 (1 January 1997): 169, <https://doi.org/10.1163/221129898X00071>.

examples showed that the administration of religion is not only shaped by the state, but also by the very religious institutions and elites that were co-opted.

As my thesis focuses on state fatwas and how they shape Islamic praxis within state restrictions, it is pertinent to survey relevant literatures on fatwas in Southeast Asia. Academic work on fatwas in Southeast Asia has largely ignored the political relationship of state fatwas, instead focusing on jurisprudential analysis and administrative limitations.¹⁴⁴ Literature on Indonesian fatwas, however, provide rare insight into the political dynamic of official religious instructions in a Southeast Asian country. One reason for this is that the official Indonesian fatwa body is quite removed from state bureaucracy,¹⁴⁵ unlike the configuration of its neighbouring countries. Literature on Indonesian state fatwas therefore highlights their societal function and political engagement with the state.¹⁴⁶ Some argue that the official state fatwa institution in Indonesia, while refraining from taking an overly-partisan political role, framed its fatwas to serve strategic political interventions by putting pressure on Indonesian politicians and steering policy debates towards religious conservatism.¹⁴⁷ According to Mudzhar, while not denying their religious motivation, state fatwas in Indonesia are used to support state policies, or in some cases, exploit mistrust between religious groups.¹⁴⁸ Menchik meanwhile examines the “co-evolution” between Shariah law and the secular government in Indonesia, and suggests that both these domains were affected by each other. By looking at decades of state fatwas on Indonesian family planning policy, he argues that the influences and interactions between the religious elites and the secular government are mutual; both sides were

¹⁴⁴ Kasan, *Institusi Fatwa Di Malaysia [The Fatwa Institution in Malaysia]*; Ahmad Hidayat Buang, ‘Analisis Fatwa-Fatwa Semasa Syariah Di Malaysia [An Analysis of Contemporary Shariah Fatwas in Malaysia]’; Abdul Rahim, ‘Ijtihad Dalam Institusi Fatwa Di Malaysia: Satu Analisis [Ijtihad in Malaysia’s Fatwa Institution: An Analysis]’; Ishak, *Fatwa Dalam Perundangan Islam [Fatwa in Islamic Legislation]*; Bakaram, ‘Theories of Iftā’ in Islamic Law with Special Reference to the Shāfi‘ī School of Law and Their Application in Contemporary Singapore’.

¹⁴⁵ Tim Lindsey, ‘Monopolising Islam: The Indonesian Ulama Council and State Regulation of the “Islamic Economy”’, *Bulletin of Indonesian Economic Studies* 48, no. 2 (August 2012): 255, <https://doi.org/10.1080/00074918.2012.694157>.

¹⁴⁶ Nico Kaptein, ‘The Voice of the “Ulamā”: Fatwas and Religious Authority in Indonesia’, *ISEAS Working Paper*, Visiting Researcher Series, no. 2 (2004).

¹⁴⁷ Trevor Preston, ‘The “State Islam” Nexus: Islam and the State in Indonesia and Malaysia 1982-2008’ (Doctoral Thesis, University of Toronto, 2012); Robet, ‘Perda, Fatwa and the Challenge to Secular Citizenship in Indonesia’; M. Atho Mudzhar, ‘The Council of Indonesian ‘Ulama’ on Muslims’ Attendance at Christmas Celebrations’, in *Islamic Legal Interpretation: Muftis and Their Fatwas*, ed. Muhammad Khalid Masud, Brinkley Morris Messick, and David Stephan Powers, Harvard Studies in Islamic Law (Cambridge, Mass: Harvard University Press, 1996), 230–42.

¹⁴⁸ M. Atho Mudzhar, *Fatwa-Fatwa Majelis Ulama Indonesia: Sebuah Studi Tentang Pemikiran Hukum Islam Di Indonesia, 1975-1988*, Ed. dwibahasa, Seri INIS 17 (Jakarta: INIS, 1993).

taking cues from one another which effectively moderated each other's position.¹⁴⁹ This closely represents what I examine in the thesis: a macro-level analysis of how statist intervention leads to the moderation of religious demands and vice versa, resulting in a version of Islamic orthopraxy that is unique to a particular country, i.e. Statist Islam.

For Singapore – the focus of my thesis – academic observation on fatwas is very limited. The most notable analysis was written by the current Mufti of Singapore in which he discusses the theological underpinnings of state fatwas, with some attention given to the societal context and background.¹⁵⁰ For a better understanding of the political relevance of state fatwas, a more relevant set of references is literature examining the Islamic religious bureaucracy in Singapore. These works, however, tend to over-emphasise the role of the state in religious affairs. Steiner, for example, argues that the state intervenes “in almost all aspects of Islamic law” and holds “a monopoly over the institutions responsible for the interpretation and scope of Islamic law.”¹⁵¹ Rahim broadly notes that despite legislative and policy mechanisms that reinforce the separation of politics and religion, the state continues to intrude into the religious sphere and influences the religious bureaucracy,¹⁵² which houses the fatwa body. As a result, some claim that the Islamic religious elites in Singapore “are either silent or are willing participants in many state projects that would sometimes compromise basic demands of ordinary Muslims.”¹⁵³ In recent times, contestations coming from the Muslim professional and ulama classes against the religious bureaucracy were observed, which represent a form of protest against authoritarian regulation of Islamic affairs in the country.¹⁵⁴ While not rejecting these observations, forms of protest originating *within* existing state-linked religious institutions should also be examined. Abdullah's investigation of the religious bureaucracy and another non-state Islamic organisation in Singapore provides a refreshing take on the subject. He argues that state co-optation of religious elites is a complex matter that does not

¹⁴⁹ Menchik, 'The Co-Evolution of Sacred and Secular'.

¹⁵⁰ Bakaram, 'Theories of Iftā' in Islamic Law with Special Reference to the Shāfi'ī School of Law and Their Application in Contemporary Singapore'.

¹⁵¹ Steiner, 'Madrasah in Singapore: Tradition and Modernity in Religious Education', 14.

¹⁵² Lily Zubaidah Rahim, 'Governing Muslims in Singapore's Secular Authoritarian State', *Australian Journal of International Affairs* 66, no. 2 (April 2012): 169–85, <https://doi.org/10.1080/10357718.2011.646483>.

¹⁵³ Aljunied, 'The Ulama in Singapore and Their Contemporary Challenges'.

¹⁵⁴ Suzaina Kadir, 'Islam, State and Society in Singapore', *Inter-Asia Cultural Studies* 5, no. 3 (December 2004): 357–71.

necessarily depict a one-sided agreement, as the religious elites choose to engage the state with “larger end goals in mind” and “use their position vis-à-vis the state to their own advantage.”¹⁵⁵ According to him, this is a necessary approach for religious elites in Singapore due to the overwhelming “power asymmetry” between them and the authoritarian state.¹⁵⁶ Their silence on political affairs, Mostarom noted, is an accepted compromise of this.¹⁵⁷

One of the consequences of religious co-optation is examined in a distinct set of literature called the bureaucratisation of Islam. Bureaucratisation of Islam takes a largely anthropological perspective on how state co-optation of religion, through the bureaucratisation of Islamic religious institutions, is negotiated at the societal level.¹⁵⁸ Focusing on the Southeast Asian region in particular, it analyses how the co-optation of religious bodies and symbols by the state evokes a slew of responses from religious actors in the society, who accommodate or resist state penetration in various ways. In the case of Brunei, Müller explores how “state-enforced Islamic orthodoxy” led spiritual healers there to modify their practice so that it adheres to Islamic regulations set by the state. By co-opting religious regulations fit their own narratives, this modification even helped to bring such practices to the mainstream society, thus creating “hybrid pathways to orthodoxy”.¹⁵⁹ It is not only religious practitioners that were affected by state regulation of religion. Muslim business owners also project forms of state-sanctioned religious agendas on their employees and companies. These religious projects in business organisations depict a form of corporate religiosity stemming from state policies.¹⁶⁰ Essentially, these examples underline how state regulation of religion is resisted and negotiated at the societal level.

My research complements this understanding of the Bureaucratisation of Islam by addressing how negotiation and resistance occur at the legal-bureaucratic level, i.e. by examining state regulations and policies which impact religious issues are negotiated

¹⁵⁵ Abdullah, ‘Religious Representation in Secular Singapore’, 1184.

¹⁵⁶ Abdullah, 1200.

¹⁵⁷ Mostarom, ‘The Singapore Ulama’.

¹⁵⁸ Dominik Müller, ‘The Bureaucratization of Islam and Its Socio-Legal Dimensions in Southeast Asia: Conceptual Contours of a Research Project’, *Max Planck Institute for Social Anthropology Working Papers*, no. 187 (2017); Müller and Steiner, ‘The Bureaucratisation of Islam in Southeast Asia: Transdisciplinary Perspectives’.

¹⁵⁹ Müller, ‘Hybrid Pathways to Orthodoxy in Brunei Darussalam: Bureaucratised Exorcism, Scientisation and the Mainstreaming of Deviant-Declared Practices’.

¹⁶⁰ Sloane-White, *Corporate Islam: Sharia and the Modern Workplace*.

by religious bureaucrats. The bureaucratisation of religious institutions in Singapore provides a pertinent study in examining the consequences of such contestations. As the Singapore case which I examine spans at least five decades of state-religious negotiations and contestations, this allows me to study the long-term negotiation that balances between co-optation and autonomy. Due to the close hierarchical relationship between the state and state-linked religious bureaucrats, the sphere of negotiation is further narrowed down to specific sets of actors and institutions within state-linked structures. What this means is that the investigation of ‘top-down’ religious projects are contested and negotiated by an integral part of the state’s own bureaucracy. While literature on the Bureaucratisation of Islam that I mentioned looks at how top-down religious demands are negotiated by societal actors, my thesis shifts the focus of negotiation and contestation of religious policies ‘upwards’, i.e. by looking at the source of these policies and their negotiation at the state-bureaucratic level.

This then shapes a unique form of context-specific religious praxis, shaped by state decisions as well as religious bureaucrats, which I term Statist Islam. This is not to say that the other, more societally-embedded actors lack the agency to negotiate and contest top-down religious policies. Rather my research complements existing studies through the examination of state fatwas that are positioned as state-linked religious instructions. These state fatwas therefore demand the examination of negotiations at the ‘higher’ plane of state bureaucracy and not at the grassroots level (which Bureaucratisation of Islam literatures explore). The positional advantage of state fatwas also allows them to shape Statist Islam beyond their legal-bureaucratic limitations, as their state-backed authority provides an additional dimension to contest state policies *beyond* the state’s drawing board, which then shapes a unique typology of religious praxis.

3 The Politics of Fatwas in Singapore: A Framework of Analysis

Especially in Political Science, the amalgamation of state and religious demands in shaping a unified religious discourse is a somewhat under-researched subject. I propose to fill this gap by synthesising aspects of the literature I mentioned above. In the previous section, I had discussed Islamism which emphasises on the state-Islamist divide in the quest to capture state power. While it aptly recognises the political agency of Islamist actors, the role of religious bureaucrats (placed between the Islamists and the state) was simply drowned out. I then analysed the co-optation of religious

institutions, an important theme that explains the state-religious dynamic in Southeast Asia. While the vast majority of studies neglected the function of religious bureaucrats in the relationship, there are a number of emerging literature that has begun to recognise how state-linked religious elites can shape state projects. This is supported by investigations showing how state-sanctioned religious orthodoxy – captured through the bureaucratisation of Islam – is negotiated by various societal actors.

My research supports the research agenda that explores the role of religious bureaucrats in resisting and negotiating state projects on religion. This qualifies the usual narrative of state control of religion (evident in literature on Islamism and state co-optation of religion). It also provides an explanation on how these negotiations can take place through state-linked religious instruction or state fatwas. More importantly, I will also conceptualise how this negotiation leads *not* to a singular outcome that favours either state or religion, rather it is amalgamated and symbolised in a form of authoritative religious praxis I call Statist Islam.

3.1 Synthesising the Concepts

Religious institutions have to rely on various facets of authority in order to remain relevant in the contemporary world. In relation to the state, this is embodied in bureaucratic and legal recognitions. Proximity to the state, however, tends to breed suspicion and mistrust. In light of Southeast Asian state projects that prevalently co-opt religious institutions, there is a tendency to downplay the role of religious elites in these projects especially if they are linked to the state. This is true for state-sanctioned fatwa bodies as they issue fatwas that not only become a dominant form of religious instruction for Muslims, but can also legitimise state decisions. To illustrate the nuances, negotiations, and forms of resistance that the religious bureaucracy pursues against the state, I will adopt a neo-Weberian political sociology standpoint to conceptualise the role and effect of state fatwas.

The conceptualisation of religious bureaucrats is refined by employing an analytical framework which explores and explains the relationship of fatwas to the state and the Muslim community. The state is taken as an independent actor that is chiefly insulated from societal interests. To be more precise, this autonomy means that the state creates and attains goals that are not necessarily in the interest of other social groups, classes,

or society.¹⁶¹ This fits very well for states of authoritarian repute, and also acknowledges that over time, the state can evolve to accommodate the role of other actors in its decision-making process.¹⁶² Therefore my research takes into account the historical development of state fatwas in order to understand the factors that led to their gradual entrenchment in the state, which then enabled them to regulate religious praxis through state resources. A big part of this entrenchment relates to fatwas' resistance and negotiation with the state, captured through policy feedback that explains how state autonomy is challenged. How the feedback occurs is conceptualised by examining the authority of state fatwas in relation to the state and society. Briefly put, state fatwas' relevance to the state is embodied in their legal-bureaucratic authority, while their connection to society is manifest in their traditional-societal authority. The legal-bureaucratic authority stems from a key legislation that also establishes the state-sanctioned religious bureaucracy, which is made up of several religious institutions including a fatwa-issuing body. The traditional-societal authority meanwhile resides in the very existence and function of fatwas that serve to instruct Muslim religious life. (See Figure 1)

The effects of state policy that regulates religious affairs thus allow fatwas to become relevant in state decision-making process. At the same time, this link to the state also amplified fatwas' reverence beyond official state-recognised channels. In sum, as fatwas are given official state recognition, they also gained the capacity to inform and contest state decisions while expanding their religious authority within the Muslim community. While not dismissing that state decisions can be affected by various other demands coming from societal actors as well as exogenous influences, the parameters of my research examine how demands from state and religious bureaucrats intertwine to shape Statist Islam.

¹⁶¹ Skocpol, 'Bringing the State Back In: Strategies of Analysis in Current Research', 9.

¹⁶² Skocpol, 14.

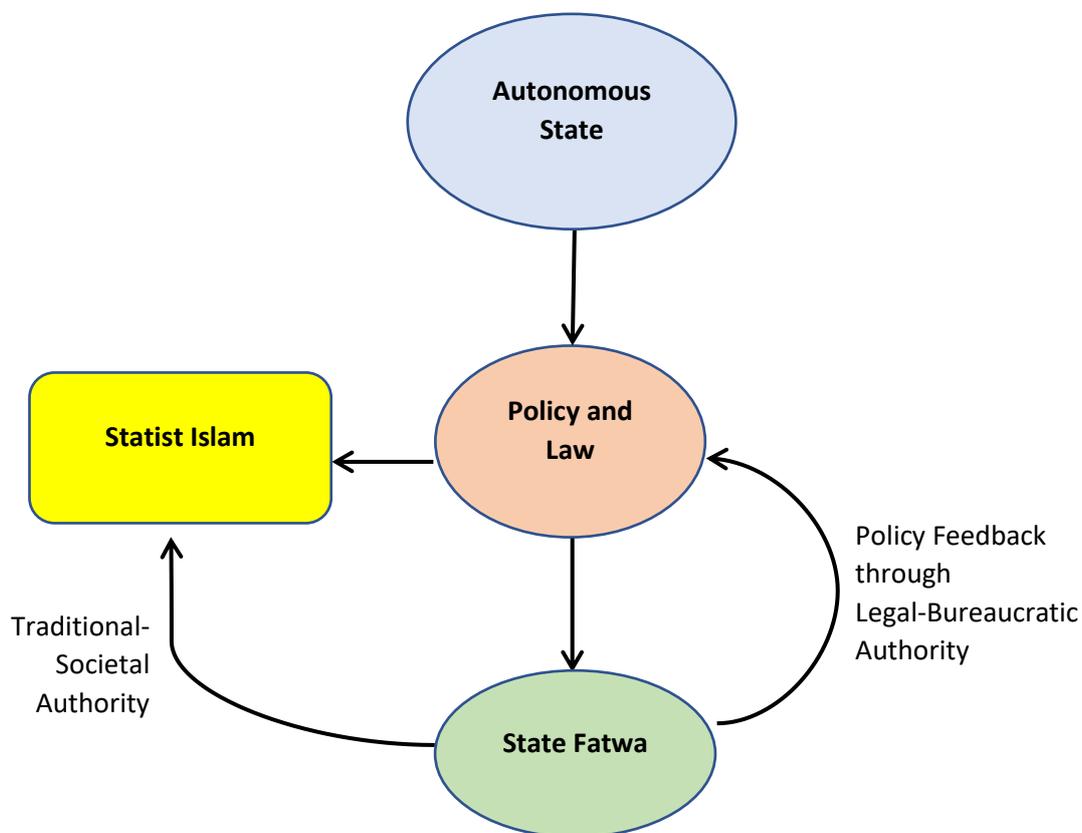


Figure 1 Conceptualising Statist Islam

When linked to my case studies, these concepts demonstrate how state policy altered institutional configurations, which then enabled fatwas to affect policy feedback and shape Statist Islam. The first set of case studies will examine the impact of fatwas on state policies. These policies have wide-ranging effects not limited to common themes such as the economy, education, and health, but also religious practices. Certain health and social policies provide significant economic incentives and disincentives, which then directly challenge a given religious position on health and family issues. As state fatwas contested these policies, they not only challenged state decisions, but also found that their own position could be moderated by state demands. The combination of both state and religious interests is captured in Statist Islam. The second set of case studies concerns court judgements which have the authority to overrule state fatwas and limit their role to legally define religious praxis. Despite that, these fatwas were able to circumvent court decisions by asserting a more direct form of traditional-societal authority, thus shaping Statist Islam beyond the formal legal-bureaucratic

channel. The third set of case studies will look at the evolution of state fatwas' legal relevance as they became more entrenched in asserting religious order and social instruction. This is in reference to state fatwas being turned into a yardstick to regulate religious teachings through the creation of an accreditation system for religious teachers. This essentially made religious teachings that contradict fatwas illegal, and shows how persistent religious co-optation entrenches the role of fatwas in state structures and the legal framework.

3.2 State Autonomy

I shall begin with the conceptualisation of the state, keeping in mind its intrusive role in the management of religious affairs. As I mentioned in the previous chapter, the authoritarian Singapore state closely regulates realms of contestation that potentially challenge its political rule.¹⁶³ Societal demands are therefore channelled to pre-approved domains and arenas that, while alluding to a façade of democratic participation, ultimately shield the state away from direct political contestations. This also restricts the scope of state-societal interactions within pre-approved avenues.

State-societal relationship is the central theme in political sociology, with an emphasis on how this relationship affects the state.¹⁶⁴ It is widely known that Max Weber favours the state as the determining point in analysing this relationship. Part of his stance was in response to Marx who situated class conflict as both productive of, and a driver of, economic transformation. In this sense Marx placed an unquestionable emphasis on the economy as the sole motivator behind social actions, and all other factors – including religion and political power – were relegated. In other words, Marxists view politics as a reflection of the class struggle in an overarching capitalist system. Therefore the state is seen as an agent under the direction of the capitalist class which can only be challenged by a proletarian revolution. Of course this traditional Marxist view was then challenged by some neo-Marxists who regard the state as somewhat autonomous because through its apparatus and law, the state becomes the

¹⁶³ Rodan and Jayasuriya, 'The Technocratic Politics of Administrative Participation: Case Studies of Singapore and Vietnam'; Rodan, 'Singapore "Exceptionalism"? Authoritarian Rule and State Transformation', 2008; Weiss, 'Of Inequality and Irritation'; Khong, 'Political Legitimacy through Managing Conformity'.

¹⁶⁴ Reinhard Bendix and Seymour M Lipset, 'Political Sociology: An Essay with Special Reference to the Development of Research in the United States of America and Western Europe', *Current Sociology* 6, no. 2 (1957): 87.

arbiter and arena of struggle between the classes.¹⁶⁵ Nevertheless the state is, essentially, an instrument of exploitation.

While both Marx and Weber see the state as a tool of domination, Weber does not see it as something that solely advances the interest of the bourgeoisie capitalist class. In many ways, Weber regards the state as a rational bureaucratic actor in itself that was established to ensure the administration of law and order. In *Politics as A Vocation*, he famously defines the state as a “community that (successfully) claims the monopoly of the legitimate use of physical force within a given territory”,¹⁶⁶ not necessarily at the behest of a certain class. In essence, the Weberian conception of the state argues that it is an organisation that pursues objectives which do not necessarily reflect the demands of powerful classes or groups. The state is an organisation that is inherently autonomous from dominant classes. However Weber still sees the state as the most powerful social institution that is insulated even from societal influences.¹⁶⁷

In recent decades, there has been a strong trend in favour of a ‘statist’ approach in academic studies. This can be contrasted with earlier attempts to replace the concept of the state with that of a broad and pluralistic political system.¹⁶⁸ Yet the ‘state’ as a concept persisted as a phenomenon beyond subjective construct that Nettl remarks “no amount of conceptual restructuring can dissolve it.”¹⁶⁹ The 1980s saw the rise of the statist approach as neo-Weberians expanded Weber’s understanding of state autonomy, albeit with a less pessimistic view of statist bureaucracy. They also revived an important caveat: that the state cannot be fully insulated from society. This was catalysed by the clarion call of “bringing the state back in” which also became the title of the book containing a collection of essays in favour of the statist slant.¹⁷⁰ In its introduction, Skocpol argues that the state should be understood as more than a mere arena of contestation, but as an autonomous actor in itself. She sees the state as an

¹⁶⁵ Bob Jessop, *Nicos Poulantzas: Marxist Theory and Political Strategy* (Macmillan London, 1985).

¹⁶⁶ Max Weber, *From Max Weber: Essays in Sociology* (Routledge, 2009), 78.

¹⁶⁷ Yet it must be noted that by no means Weber demonstrated his support of mechanical bureaucratisation, even if it leads to great efficiency. Due to the nature of modern bureaucracy, he cautioned that this such a development risks becoming too rational that it leads to depersonalisation of the individual, and even suppresses freedom. See Wolfgang Schluchter, *The Rise of Western Rationalism: Max Weber’s Developmental History* (Univ of California Press, 1985); Jacob Peter Mayer, *Max Weber and German Politics*, vol. 4 (Psychology Press, 1998), 126–27.

¹⁶⁸ Skocpol, ‘Bringing the State Back In: Strategies of Analysis in Current Research’, 4.

¹⁶⁹ John P Nettl, ‘The State as a Conceptual Variable’, *World Politics* 20, no. 4 (1968): 559.

¹⁷⁰ Peter Evans, Dietrich Rueschemeyer, and Theda Skocpol, *Bringing the State Back In* (Cambridge, United Kingdom: Cambridge University Press, 1985).

organisation “claiming control over territories and people which may formulate and pursue goals that are not simply reflective of the demands or interests of social groups, classes, or society.”¹⁷¹ Skocpol – in analysing state-societal relationship – assesses the centrality of the state in its decision-making process, and that that should be independent of other, non-state interests. Skocpol therefore not only dismisses the Marxist position that reduces the state to class struggle but argues that the autonomous state acts just like as an independent organization which functions through its own internal structure and interests. Essentially, there is a coherent form of organization for the state that autonomously drives its own independent decisions and actions.

Yet state autonomy is not absolute.¹⁷² Its autonomy (and dependence to the society) can be affected by various factors, such as crises and emergencies which can lead to the enactment of highly autonomous state policies. Therefore the “structural potentials” that allow autonomous state actions are subject to change “both internally and in their relations to societal groups and to representative parts of government,”¹⁷³ which is why the concept is “realized only in truly historical studies that are sensitive to structural variations and conjunctural changes within given polities.”¹⁷⁴

Building on this, the relationship between the autonomous state and other actors is examined through a “fully relational approach.”¹⁷⁵ Despite acknowledging its complex relations to other actors, the state is nonetheless taken as an autonomous actor, able to make its own decisions and largely uninhibited by the ties and network that define it. This decision-making is perhaps most evident in the policies that it creates, which places its own particular interest above other non-state actors. Again while the decision of the state is separate and distinct from the demands of society, it does not mean that it is immune to any sort of intervention. My research takes this concept of autonomous state and examines how state decision-making is negotiated *despite* this autonomy. The macroscopic examination of state-societal configurations is further investigated by analysing how various groups challenge state decisions.

¹⁷¹ Skocpol, ‘Bringing the State Back In: Strategies of Analysis in Current Research’, 9.

¹⁷² Skocpol, 14.

¹⁷³ Skocpol, 14.

¹⁷⁴ Skocpol, 14.

¹⁷⁵ Skocpol, ‘Bringing the State Back In: Retrospect and Prospect The 2007 Johan Skytte Prize Lecture’, 111.

One particular relationship that invites closer inspection is the interaction of religious communities with the state, and vice versa. This is especially pertinent in an authoritarian secular state like Singapore which vigorously curbs domestic contestations of its political authority, a key reason for managing religious affairs through the religious bureaucracy. There is also a wider regional concern behind this, since Singapore is susceptible to the religious trends of its Muslim neighbours. This is due to their shared history, location in a vastly Muslim archipelago, and fluid political developments, which I will explain in more detail in the next chapter.

To sum up, the autonomous state is taken as the starting point in analysing state-societal relationship. The neo-Weberian notion that emphasises state centrality means that state decision-making formulation is largely independent of other non-state interests. However beyond direct patterns stemming from political arrangements, unintended consequences through policy feedback should not be overlooked.¹⁷⁶

3.3 Policy Feedback

Béland defines policy feedback as the “impact of previously enacted policies on future political behaviour and policy choices”.¹⁷⁷ Policies here are not restricted to only laws, rules, and statements, but also “the broader sweep of politics.”¹⁷⁸ Hacker and others posited that policies can even “resemble political institutions, structuring social experience, organizing group competition, and channelling political participation” as “politics unfolds on an existing landscape where policies may already have fostered coalition, set agendas, defined incentives, given rise to interests, shaped popular understandings, and so on.”¹⁷⁹

Building on the concept of the autonomous state, I have established that the state cannot be insulated from other influences. Here, two strategies in analysing the state becomes apparent. The first one views the state as “organizations through which official collectivities may pursue distinctive goals, realising them more or less effectively given the available state resources in relation to social settings.” The

¹⁷⁶ Skocpol, *Protecting Soldiers and Mothers*; Skocpol, ‘Bringing the State Back In: Retrospect and Prospect The 2007 Johan Skytte Prize Lecture’.

¹⁷⁷ Béland, ‘Reconsidering Policy Feedback’, 570.

¹⁷⁸ Thomas A Birkland, *An Introduction to the Policy Process: Theories, Concepts and Models of Public Policy Making* (Routledge, 2014), 10.

¹⁷⁹ Jacob S Hacker, Suzanne Mettler, and Joe Soss, ‘The New Politics of Inequality: A Policy-Centered Perspective’, in *Remaking America: Democracy and Public Policy in an Age of Inequality*, ed. Joe Soss, Jacob S Hacker, and Suzanne Mettler (New York: Russell Sage Foundation, 2007), 15.

second one looks “macroscopically” at the “configurations of organization and action that influence the meanings and methods of politics for all groups and classes in society.”¹⁸⁰ This brings us to the examination of other actors in state-centred analyses. Skocpol’s *Protecting Soldiers and Mothers* borrows from Tocqueville to depict how nineteenth century American state structures affected the objectives and capacities of social groups, leading to policy feedback that consequently reshaped political processes, thus modifying the capacities of the state.¹⁸¹ Peter Evans – a key collaborator of Skocpol – introduced the concept of “embedded autonomy” that explores the outcome of shared projects in economic development between the state and societal actors.¹⁸² Joel Migdal develops the “state in society” concept to demonstrate the mutual transformation of the state and society. He sees the state as an organisation that is not only separated, but also “elevated” from society.¹⁸³ This does not mean that the state is a monolithic entity with clear boundaries, but just like any other organisation there are “ongoing battles” that push “different versions of how people should behave.”¹⁸⁴ At the same time, the state is autonomous because it is a “field of power marked by the use and threat of violence and shaped by (1) the image of a coherent, controlling organization in a territory, which is a representation of the people bounded by that territory, and (2) the actual practices of its multiple parts.”¹⁸⁵ I will focus on the concept of policy feedback to analyse how a constituent of the state can affect state decisions. In essence, policy feedback explores the “mechanisms through which policies reshape social and state actors’ interests and capacities” and how, over time, these new configurations influence politics and subsequent policy maintenance, reversal, or expansion.¹⁸⁶

¹⁸⁰ Skocpol, ‘Bringing the State Back In: Strategies of Analysis in Current Research’, 28.

¹⁸¹ Skocpol, *Protecting Soldiers and Mothers*.

¹⁸² Peter Evans, *Embedded Autonomy: States and Industrial Transformation* (Princeton, N.J.: Princeton University Press, 1995).

¹⁸³ Joel S Migdal, *State in Society: Studying How States and Societies Transform and Constitute One Another* (Cambridge University Press, 2001), 17.

¹⁸⁴ Migdal, 12.

¹⁸⁵ Migdal, 15–16.

¹⁸⁶ Duncan L. Edmondson, Florian Kern, and Karoline S. Rogge, ‘The Co-Evolution of Policy Mixes and Socio-Technical Systems: Towards a Conceptual Framework of Policy Mix Feedback in Sustainability Transitions’, *Research Policy*, March 2018, <https://doi.org/10.1016/j.respol.2018.03.010>.

Literature on policy feedback can be divided into how policies relate to the mass public and political elites.¹⁸⁷ With regard to the public, feedback research has explored how policies influence them and affect broad patterns of citizen participation.¹⁸⁸ Campbell for example demonstrates how new policy recipients became more involved in political campaigns which then not only preserved the original policy, but also expanded it.¹⁸⁹ Policies can also affect conceptions of citizenship as they inherently shape views on the recipient groups' civic standing and how they are perceived in society.¹⁹⁰

For the elite actors in the state, policy feedback effects can transform or expand capacities of the state due to official efforts in policy implementation and its related administrative arrangements. This results in subsequent "administrative possibilities" for the state that affect future prospects of policy implementation.¹⁹¹ New policies may affect the identities, goals, and capabilities of groups that later turn them into political allies or otherwise.¹⁹² This creates structures of path dependencies that drive them to develop new policies along previous lines of interest.¹⁹³ In other words as organised interests adapt to new policies, these actors grow dependent on them and become invested in their continuation.¹⁹⁴

It is at this point I should briefly raise the empirical context that my thesis addresses. The authoritarian norms that are prevalent in Singapore make it quite a distinct subject matter compared to the cases I cited above, which largely addressed the Western neo-liberal state, i.e. the US which is typified by the democratic participation of a robust civil society. Singapore, however, is closer to the opposite end of the spectrum, and more synonymous with 'authoritarianism' where democratic norms are constricted by the state.¹⁹⁵

¹⁸⁷ Donald P Moynihan and Joe Soss, 'Policy Feedback and the Politics of Administration', *Public Administration Review* 74, no. 3 (2014): 320–32.

¹⁸⁸ Mettler and Soss, 'The Consequences of Public Policy for Democratic Citizenship'.

¹⁸⁹ Campbell, 'Policy Makes Mass Politics'.

¹⁹⁰ Anne L Schneider and Helen Ingram, 'Social Constructions in the Study of Public Policy', *Handbook of Constructionist Research*, 2008, 189–211.

¹⁹¹ Skocpol, *Protecting Soldiers and Mothers*, 58.

¹⁹² Skocpol, 58.

¹⁹³ Paul Pierson, 'Increasing Returns, Path Dependence, and the Study of Politics', *American Political Science Review* 94, no. 2 (2000): 251–67.

¹⁹⁴ Jacob S Hacker, *The Divided Welfare State: The Battle over Public and Private Social Benefits in the United States* (Cambridge University Press, 2002).

¹⁹⁵ Rodan, 'Singapore "Exceptionalism"? Authoritarian Rule and State Transformation', May 2006; Rahim, 'Governing Islam and regulating Muslims in Singapore's secular authoritarian state'; Rahim,

My reference of authoritarianism here closely replicates Levitsky and Way's usage, in particular when they describe regimes as "competitive authoritarian"; i.e. they may *seem* democratic but do not meet all the criteria that makes them a fully-democratic country.¹⁹⁶ Such regimes might be lacking one or more of the following: free and fair elections, the right for adults to vote, political rights and civil liberties, freedom to criticise the political authority, elected officials having to real power to govern.¹⁹⁷ While such characteristics can be observed in democratic regimes, they are however not systematic enough to "seriously impede democratic challenges to incumbent governments."¹⁹⁸ In competitive authoritarian regimes, however, such violations become serious enough hinder proper challenges against the ruling regime.

While Singapore certainly fits the template set by Levitsky and Way, the nature of Singapore's authoritarianism can be further explained in literatures examining the role of law in legitimising state power, especially as my research concerns fatwas and their formal legal-bureaucratic role vis-à-vis the state. Here, the application of Singapore's authoritarianism is explained in works by Rodan and Jayasuriya,¹⁹⁹ Rajah,²⁰⁰ and also Chua,²⁰¹ who outlined the duality (or even inconsistencies) of Singapore's legal system. To elaborate, Singapore practices a somewhat transparent 'rule of law' in trade and economy which attracts foreign investments and contributes to Singapore's economic success, consequently giving the ruling regime a legitimating quality where the GDP is concerned. Yet Singapore's law on civil and political rights is far from admirable, fitting more aptly with the term 'rule by law' which impedes political opposition against the incumbent through the tight legal regulation of the media, civil societies, religious groups, and even legal practitioners.²⁰²

'Governing Muslims in Singapore's Secular Authoritarian State'; Weiss, 'Of Inequality and Irritation'; Abdullah, 'Managing Minorities in Competitive Authoritarian States'; Turner, 'Soft Authoritarianism, Social Diversity and Legal Pluralism: The Case of Singapore'; Turner.

¹⁹⁶ Steven Levitsky and Lucan Way, 'The Rise of Competitive Authoritarianism', *Journal of Democracy* 13, no. 2 (2002): 51–65.

¹⁹⁷ Levitsky and Way, 53.

¹⁹⁸ Levitsky and Way, 53.

¹⁹⁹ Rodan and Jayasuriya, 'The Technocratic Politics of Administrative Participation: Case Studies of Singapore and Vietnam'.

²⁰⁰ Jothie Rajah, *Authoritarian Rule of Law Legislation, Discourse and Legitimacy in Singapore* (Cambridge: Cambridge University Press, 2012), <http://dx.doi.org/10.1017/CBO9780511998201>.

²⁰¹ Chua, 'Multiculturalism in Singapore'; Beng Huat Chua, *Liberalism Disavowed: Communitarianism and State Capitalism in Singapore* (Ithaca: Cornell University Press, 2017).

²⁰² Rodan, 'Singapore "Exceptionalism"? Authoritarian Rule and State Transformation', May 2006; Rahim, 'Governing Islam and regulating Muslims in Singapore's secular authoritarian state'; Rahim, 'Governing Muslims in Singapore's Secular Authoritarian State'; Weiss, 'Of Inequality and Irritation'; Abdullah, 'Managing Minorities in Competitive Authoritarian States'; Turner, 'Soft

The endurance of the authoritarian system in Singapore – where one political party continuously dominates for more than half a century – cannot be attributed solely to repressive incapacitation of political opponents. Persistent authoritarianism requires a combination of effective (albeit ruthless) economic policies, as well as social objectives that appeal to voters, including forcibly dismantling labour unions to advance state capitalism, disrupting property rights for affordable housing projects, and actively managing racial and religious relations, demonstrating that even authoritarian models of governance have to be responsive to societal demands.²⁰³ Yet the avenues of participation and contestation are highly regulated such that societal demands are channelled through approved state-linked entities, thereby nipping potential political contestations in the bud.²⁰⁴ The Singapore state also exercises “pre-emptive institutional initiatives” by co-opting potential political opponents into the fold of the state.²⁰⁵

Measures like these underline that the monopoly of state control cannot be effectively contained within a single group of uniform actors; the state also has to accommodate various societal demands in order to effectively retain power. For the authoritarian state, this accommodation takes the form of co-optation that is designed to embrace competition as well as stifle potential dissent. Furthermore the way this accommodation takes place – by co-opting potential challengers – is not without consequences. Including new actors within state structures leads to new configurations, policies, and activities, which can subsequently “stimulate the development of influential bureaucratic constituencies”.²⁰⁶ Therefore both the state and society are not fixed in uniformity, but as Migdal observes they are continuously underdoing a “process of transformation”; constantly “becoming” by changing their respective “structure, goals, constituencies, rules, and social control”.²⁰⁷ This in turn

Authoritarianism, Social Diversity and Legal Pluralism: The Case of Singapore’; Turner; Rajah, *Authoritarian Rule of Law Legislation, Discourse and Legitimacy in Singapore*.

²⁰³ Chua, *Liberalism Disavowed*.

²⁰⁴ Rodan and Jayasuriya, ‘The Technocratic Politics of Administrative Participation: Case Studies of Singapore and Vietnam’; Rodan, ‘Singapore “Exceptionalism”? Authoritarian Rule and State Transformation’, 2008; Weiss, ‘Of Inequality and Irritation’; Khong, ‘Political Legitimacy through Managing Conformity’.

²⁰⁵ Rodan, ‘Singapore “Exceptionalism”? Authoritarian Rule and State Transformation’, May 2006, 11.

²⁰⁶ Béland, ‘Reconsidering Policy Feedback’, 572.

²⁰⁷ Migdal, *State in Society: Studying How States and Societies Transform and Constitute One Another*, 57.

provides fertile ground for groups to form and make collective action to advance their respective interests.

As the co-optation of new actors leads to the creation of new bureaucratic constituencies, this also gives them the capacity to inform state decisions. In the context of this research, the ‘new bureaucratic constituency’ in focus is the religious bureaucracy made possible by the policy to regulate religious affairs. This regulation is realised by the relevant legal statutes, as well as the bureaucratisation of religious elites which also aids societal acceptance. As state policies undergo the process of negotiation and implementation, the small yet important role of the state’s religious constituent becomes apparent.

In examining the role of state-linked religious elites, and specifically state fatwas as a mode of religious demand, I intend to make several contributions to the concept of policy feedback. Firstly, notable empirical cases on policy feedback effects have been partial to examining “large-scale policy programmes in some specific policy areas but not others.”²⁰⁸ Prolific studies in the field mostly focus on welfare policies; Skocpol’s *Protecting Mothers and Soldiers* – credited for jumpstarting interest in policy feedback – traces the history of US social spending on its war veterans and its subsequent shift to mothers and their children.²⁰⁹ Mettler meanwhile examines the impact of educational provisions for US war veterans.²¹⁰ Campbell explores the effects of proposed US healthcare reforms on senior citizens and their response to the policy.²¹¹ Similarly, work by Soss et al focuses on income and wealth inequalities by investigating welfare, tax, and labour policies.²¹² While useful, these case studies nonetheless are overwhelmingly concerned with broad policy programmes that appeal to large segments of the population.

My research will shift the area of focus to analyse religious policies. This unique focus will apply policy feedback to analyse policies that are focused on the interest of small groups in the society. Although policy feedback concerns how politics can affect the

²⁰⁸ Andrew Jordan and Elah Matt, ‘Designing Policies That Intentionally Stick: Policy Feedback in a Changing Climate’, *Policy Sciences* 47, no. 3 (2014): 228.

²⁰⁹ Skocpol, *Protecting Soldiers and Mothers*.

²¹⁰ Suzanne Mettler, ‘Bringing the State Back in to Civic Engagement: Policy Feedback Effects of the GI Bill for World War II Veterans’, *American Political Science Review* 96, no. 2 (2002): 351–65.

²¹¹ Andrea Louise Campbell, ‘Participatory Reactions to Policy Threats: Senior Citizens and the Defense of Social Security and Medicare’, *Political Behavior* 25, no. 1 (2003): 29–49.

²¹² Joe Soss, Jacob S. Hacker, and Suzanne Mettler, eds., *Remaking America* (Russell Sage Foundation, 2007), <http://www.jstor.org/stable/10.7758/9781610445108>.

political capacity of various advocacy groups, the exploration of religious policies through the lens of policy feedback remains an under-researched topic. I have yet to find even one research paper on how policy feedback can be applied to examine policies that concern religious elites, which is quite a surprise.²¹³ My thesis therefore will expand the potential of policy feedback analysis on religious and cultural issues.

Secondly, there is a perceptible bias that policy feedback over-emphasises on the US experience, if not Western neo-liberal societies in general. This is due to the robust dynamics between lobby groups, political parties, as well as political actors in such milieus. By making Singapore the subject of my macro-analysis on state-religious relationship, I will not only shift the geographical focus on an entirely different continent, but more importantly apply policy feedback in an authoritarian context. This shift will also accommodate the various literature on Singapore (which I mentioned previously) revealing the consequences of highly-regulated domains of contestation. As authoritarian state structures are designed to resist societal elements from affecting state decisions, the role of co-opted social actors should then be scrutinised. Policy feedback will help to conceptualise the effects of legal-bureaucratic authority endowed on co-opted societal elites, as well as to examine how these effects are applied in a non-ideal pseudo/semi-democratic context.

This thesis also analyses the conditions which facilitate policy feedback as well as factors leading to its change, something deemed to be lacking in the field.²¹⁴ That is to say, I will examine the factors that could possibly disrupt and even end policy feedback effects. This entails looking at how institutional configurations evolve and change by analysing the foundations and factors that these configurations are built on.²¹⁵ For state-linked religious institutions, this relates to the forms of authority they assert over the state and societal actors. In relation to the state, the formalised bureaucratisation of religious institutions takes the form of legal-bureaucratic authority. Meanwhile the informal traditional-societal authority remains central to how religious institutions

²¹³ The closest exception for this claim are papers that analyse the responsiveness of the religious mass – and not elites – to social programs. See for example: Clem Brooks and Jeff Manza, ‘Social Policy Responsiveness in Developed Democracies’, *American Sociological Review* 71, no. 3 (June 2006): 474–94, <https://doi.org/10.1177/000312240607100306>.

²¹⁴ Patashnik and Zelizer, ‘The Struggle to Remake Politics: Liberal Reform and the Limits of Policy Feedback in the Contemporary American State’, 1075; Kathleen Thelen, ‘Historical Institutionalism in Comparative Politics’, *Annual Review of Political Science* 2, no. 1 (1999): 396.

²¹⁵ Thelen, ‘Historical Institutionalism in Comparative Politics’.

relate to the society. Because these forms of authority contract and expand, they would also provide explanations for the disruption and perpetuation of institutional configurations. Building on this relational authority – the different forms of authority that state fatwas invoke in relation to other actors – the outcome is then conceptualised in Statist Islam, which captures the factors that are essential to the functions of state-linked religious institutions.

To sum up, policy feedback concerns how policies affect politics. The state policy of regulating religious affairs leads to the entrenchment of new bureaucratic constituencies and their capacity to affect state decisions. But to understand how policy feedback occurs, I propose looking at how the authority of these bureaucratic constituencies is asserted. The next part will explain the role of authority in my conceptual framework.

3.4 Authority

To properly conceptualise fatwas as a form of state-linked religious instruction, we need to trace how religious bureaucrats relate to the modern state. This is pertinent because in many countries including Singapore, fatwas are legally recognised and tied to the modern state bureaucracy. By examining the basis of fatwas' authority and how this translates in relation to the state and society, this section conceptualises the extent of state fatwas' influence.

Fatwas represent a crucial mode for religious elites to negotiate their sectoral interests. Because fatwas remain an indispensable tool for religious instruction, they can be invoked on a wide range of issues, from personal religious rituals to societal projects to political agendas. It is important to recognise that the legal and bureaucratic channels endowed to fatwas give them the authority to permeate the state's decision-making process. The outcome of this relationship and negotiation between state and religious interests shapes a standardised form of religious praxis, i.e. Statist Islam. Because state fatwas have to assert authority in order to affect Statist Islam, I will outline the types of authority they utilise when they contend against different actors in different situations. The legal-bureaucratic authority underpins the institutional configurations that state fatwas enjoy with the state. The authority of state fatwas over the society is meanwhile conceptualised through traditional-societal authority.

Authority could be examined in terms of power relations, yet according to Arendt, it should be further defined “in contradistinction to both coercion by force and persuasion through arguments.”²¹⁶ A key point she makes is that political authority is complemented by religion and tradition. But the breakdown of “all traditional authorities” in modern times has led to a deepening political crisis, resulting in new forms of totalitarian government. While Arendt explicitly addressed the Western milieu and referred to a specific form of historical authority that rests on a recognised hierarchy, this argument could also be extended to many modern contexts.

There are parallels of Arendt’s view on authority in the West to those in Asia, as the latter also derived power and authority “from a hierarchy taken as the earthly manifestation of a cosmic order”, which changed as “every country in Asia was restructured on a Western model of the nation-state”.²¹⁷ This marked origin of power, authority, and their consequences today is not unique, and therefore does not diverge far from the Muslim experience where religious authority is linked to historical foundations, political origins, and claims of authentic Islamic sources and traditions.²¹⁸ Another parallel is the Platonian element of expertise, in which Arendt links to the authority of knowledge production. These elements are present in the roles of fatwa issuers, whose relevance began in the early days of Islam as the interpreter of scriptural injunctions. Being the ones to define religion made them the source of Islamic knowledge and accorded them the positions of qadis and muftis; essentially their word became law.

The function of fatwas to interpret and define Islam is also related to Durkheim’s concern on the relationship between authority and morality, since fatwas instruct not only religious rituals but also moral norms in the society. Although Durkheim viewed morality to be extricable from religion, and vice versa,²¹⁹ I argue that both are intertwined especially in the Muslim experience. At least two brief reasons could be given for this. Firstly, Durkheim sees religion as a “symbolic expression of society’s

²¹⁶ Hannah Arendt, “What is Authority?” in *Between Past and Future*, New York: Penguin, 1968, p2

²¹⁷ Charles F Keyes, Laurel Kendall, and Helen Hardacre, *Asian Visions of Authority: Religion and the Modern States of East and Southeast Asia* (University of Hawaii Press, 1994), 4.

²¹⁸ Muhammad Qasim Zaman, ‘The Ulama and Contestations on Religious Authority’, *Islam and Modernity: Key Issues and Debates*, 2009, 206–36.

²¹⁹ Émile Durkheim, *Sociology and philosophy* (Abingdon: Routledge, 2010); Frank Furedi, *Authority: A Sociological History* (Cambridge, United Kingdom ; New York: Cambridge University Press, 2013), 4.

deepest moral sentiments and ideals” which unites society in – what he believes to be – times of great individualism.²²⁰ My reference of religion, however, is less adventurous and more conventional, in that it refers to a set of beliefs in divine power that leads to a set of laws and praxes which regulates social order. Unlike Durkheim who sees the decline of religious institutions in ‘the West’ as the demise of religion’s role to dictate moral authority, I look at ‘the East’ to argue that the permutation of religious institutions into modern state structures is a sign of their persistence. Yet I must concede to Durkheim’s thesis that society is continuously looking for other non-religious sources of morality, which then leads to some forms of individuation – if not societal norm – that challenges the religious definition of morality. However I propose that religious institutions are constantly in negotiation with these ‘new’ forms of morality in society. This is because even as religion regulates, it is also regulated by other forces; i.e. religious praxes are susceptible to change due to pressures stemming from the shifting morals of the society, and also the constantly evolving state interests.²²¹ Today’s application of Islamic law as an “assemblage”²²² of not only religious tradition but also various social, economic, and political demands bears testament to how religious institutions are transformed to remain relevant to the evolving moral preference of the society. The manifestation of secular and sacred interests through religious institutions is also supported by Hussin’s excellent insight on the development of Islamic law, which she calls the institutionalisation of the “politics of paradox” as the modern Muslim state struggles to maintain as well as suppress the application of Islamic law.²²³ Peletz’s and Mohamad’s earlier cited work on Islamic courts and religious bureaucracy also demonstrated how religious institutions became a platform of negotiation and bargaining between the state, society, and those in between.²²⁴ Secondly, Islamic religious authority is seen as both

²²⁰ Lise Ann Tole, ‘Durkheim on Religion and Moral Community in Modernity’, *Sociological Inquiry* 63, no. 1 (January 1993): 3, <https://doi.org/10.1111/j.1475-682X.1993.tb00199.x>.

²²¹ Gudrun Krämer and Sabine Schmidtke, *Speaking for Islam: Religious Authorities in Muslim Societies*, vol. 100 (Brill, 2006); James A Beckford and James T Richardson, ‘Religion and Regulation’, *The SAGE Handbook of the Sociology of Religion*, London: Sage, 2007, 396–418.

²²² Michael Peletz, ‘Malaysia’s Syariah Judiciary as Global Assemblage: Islamization, Corporatization, and Other Transformations in Context’, *Comparative Studies in Society and History* 55, no. 3 (2013): 603–33.

²²³ Iza R Hussin, *The Politics of Islamic Law: Local Elites, Colonial Authority, and the Making of the Muslim State* (University of Chicago Press, 2016), 265.

²²⁴ Peletz, *Islamic Modern*; Mohamad, ‘The Ascendance of Bureaucratic Islam and the Secularization of the Sharia in Malaysia’.

a political and moral force that protects the interests of the citizen.²²⁵ Compared to the Western European experience, the ‘Muslim experience’ of religion is arguably inextricable from its role in regulating moral and social conduct. Numerous calls for an “Islamic reformation” – which assumed similar consequences for Muslims as the West with Christianity²²⁶ – were met with vociferous rejoinders.²²⁷ Also, political authority in Muslim-majority countries is almost always contingent on religious legitimacy.²²⁸ This is not only evident in the appeal of Islamist political parties in the Arab Spring, but also the widespread practice of co-opting religious institutions to bolster political legitimacy in the Middle East and Southeast Asia. In essence, religious and moral authority could hardly be separable where the Islamic belief is concerned.

Religious authority should, however, be separated from the understanding of state, legal, or military authorities that are largely based on physical coercion. While many authorities rely on some form of coercion, I propose that religious authority on its own possesses limited capacity to mete out physical coercion. This is especially true in secular countries where religious authority is removed from the state. In the case of Singapore where the Islamic religious bureaucracy is linked to the state, physical coercion is realised only by invoking relevant parts of the secular legal apparatus, through which the judiciary decides if its legal authority should be executed to process the demands of the religious bureaucracy. Even in countries where the legal system is based on religious law, the capacity to mete out physical coercion is not sanctioned solely by virtue of religious authority. Rather it is made possible by the interdependence of religious law on the court’s legal authority, which then carries out the required physical coercion.

²²⁵ N. Hashemi, ‘Rethinking Religion and Political Legitimacy across the Islam-West Divide’, *Philosophy & Social Criticism* 40, no. 4–5 (1 May 2014): 439–47, <https://doi.org/10.1177/0191453714522803>.

²²⁶ Thomas L. Friedman, ‘An Islamic Reformation’, *The New York Times*, 4 December 2002, sec. Opinion, <https://www.nytimes.com/2002/12/04/opinion/an-islamic-reformation.html>; Hossein Askari, ‘Muslim Reformation Will Vanquish Terrorism’, *Huffington Post* (blog), 12 May 2016, https://www.huffingtonpost.com/hossein-askari/muslim-reformation-will-v_b_9936966.html.

²²⁷ Mustafa Akyol, ‘The Islamic World Doesn’t Need a Reformation’, *The Atlantic*, 31 October 2017, <https://www.theatlantic.com/international/archive/2017/10/muslim-reformation/544343/>; Nick Danforth, ‘Islam Will Not Have Its Own “Reformation”’, *Foreign Policy* (blog), 2 January 2015, <https://foreignpolicy.com/2015/01/02/islam-will-not-have-its-own-reformation/>; Mehdi Hasan, ‘Why Islam Doesn’t Need a Reformation’, *The Guardian*, 17 May 2015, sec. Opinion, <http://www.theguardian.com/commentisfree/2015/may/17/islam-reformation-extremism-muslim-martin-luther-europe>.

²²⁸ Hashemi, ‘Rethinking Religion and Political Legitimacy across the Islam-West Divide’.

Therefore, I take the position that the essential coercive elements of religious authority are introduced through “religious language and symbolism” that induce communal obligation and compel obedience,²²⁹ in addition to promises of metaphysical rewards and punishments. Religious authority is uniquely different than other forms of authority; after all as Pye argues, authority is subjective and dependent on specific interpretations and expectations of what constitutes legitimacy.²³⁰ The bearers of “sacred authority” – the term used by Eickelman and Piscatori to refer to religious authority – are linked to their followers through various means: ideology, as they “exemplify the moral order” and “represent symbolic reference points”; location, in which the presence of religious authority makes its bearers relevant; and function, because they serve a role in providing religious instructions.²³¹ These domains of authority, as I call them, are but indicators of *how* religious institutions invoke authority when dealing with various actors.

Here, Weber’s analysis of the foundation of authority could be used to demonstrate the *type* of religious authority invoked by state fatwas. The well-known tripartite distinction of authority – traditional, charismatic, and rational-legal – attempts to locate the sources of legitimation.²³² Taking fatwas as an example to illustrate Weber’s ideal-type form of authority, the legitimacy of fatwas’ traditional authority fits Weber’s definition, namely as it is sanctified by validity for a long time. In this sense, the **traditional authority** of fatwas is firstly demonstrated in the *essence* of the fatwa itself; its sole existence demonstrates the persistent legitimacy of a long-held tradition

²²⁹ Dale F. Eickelman and James P. Piscatori, *Muslim Politics*, Princeton Studies in Muslim Politics (Princeton, N.J.: Princeton University Press, 1996), 57.

²³⁰ Mary W Pye, *Asian Power and Politics* (Harvard University Press, 1985).

²³¹ Eickelman and Piscatori, *Muslim Politics*, 58.

²³² Max Weber, *Economy and Society: An Outline of Interpretive Sociology*, ed. Guenther Roth and Claus Wittich, 2 vols (University of California Press, 1978). While Weber’s typology is dominant, it is not without its critics. Willer argued that Weber’s three types of authority is incompatible compared to his own four types of social action and four types of social order legitimation. In legitimizing social action, traditional legitimacy is bestowed by the traditional authority, charismatic authority is linked to affectual legitimacy and social action, while purposive-rational social action is borne out of rational-legal authority. But Weber’s value-rational action and rational legitimacy is not linked a particular form of authority. Willer proposed another source of authority – ideological – to refer to authority that follows from action that is rational in value. Satow argued that this type of authority not only ensures the continuity of an organisation by accommodating various degrees of commitment to an ideology, but also makes room for adaptability in changing circumstances. For more, see: Roberta Lynn Satow, ‘Value-Rational Authority and Professional Organizations: Weber’s Missing Type’, *Administrative Science Quarterly*, 1975, 526–31; David E Willer, ‘Max Weber’s Missing Authority Type’, *Sociological Inquiry* 37, no. 2 (1967): 231–40; Martin E. Spencer, ‘Weber on Legitimate Norms and Authority’, *The British Journal of Sociology* 21, no. 2 (June 1970): 123, <https://doi.org/10.2307/588403>.

since fatwas represent the practice of religious instructions. The traditional authority is reinforced by the *content* of the fatwas, as the religious evidences that fatwas cite to justify their ruling are made up of established traditional Islamic scripture.

The **charismatic authority** of fatwas can be seen in its *association* to the ulama, religious figures who not only claim knowledge of the religion but also symbolise religious scholarship. The role of these ulama are hardly confined within the fatwa institution, because prior to their appointment they were already established figures in the society, a testament to their charismatic authority. Indeed, to be appointed as a mufti not only requires religious knowledge, but societal acceptance as well.

The **rational-legal authority** is demonstrated in the *function* of fatwas. They informally instruct religious orthopraxy and orthodoxy and set religious rulings in a Muslim community. In many countries, including Singapore, the authority of fatwas is also formalised through recognition in the secular legal system. On the surface, this allows the modern nation-state to manage its religious institutions and opens the door for the instrumentalisation of religion. Yet this also grants state fatwas access to the available bureaucratic resources, and more importantly formalises their legal relevance.

Clearly the forms of authority here do not operate in isolation, rather they overlap depending on contexts and issues. For example, the personal charismatic authority of religious figures is shifted into a procedural one when they are appointed to public office. Mohamad posited that “the charismatic personality is...transmuted into the routinized charismatic official, who commands on the basis of statutes legitimized through a rational, bureaucratic, if not democratic, framework.”²³³ As the core of fatwas deal with religious issues, I propose to look at the various conceptions of authorities above within the ambit of religious authority.

Here I define religious authority as: the capacity to exact Muslim societal obedience on religious issues, and influence other actors to the benefit of religious interests, with limited recourse to physical coercion. Religious authority in the modern state overlaps between legal, bureaucratic, and social spheres. The manifestation of state fatwas’

²³³ Mohamad, ‘The Ascendance of Bureaucratic Islam and the Secularization of the Sharia in Malaysia’, 519.

religious authority in these spheres is categorised into two broad classifications: legal-bureaucratic authority and traditional-societal authority.

3.4.1 Legal-Bureaucratic Authority

Legal-bureaucratic authority refers to how state fatwas function in the secular context, i.e. by securing relevance through bureaucratic recognition and legal embeddedness.

State-sanctioned religious institutions are endowed with formalised authority and recognised legally as a part of state bureaucracy. Fatwa institutions including those in Southeast Asia – among them Singapore – were accorded legal status as they transitioned into the post-colonial nation-state system. For the case of Singapore, this legal recognition is outlined in the Administration of Muslim Law Act (AMLA), a legislation that covers the regulation of Islamic law and its religious institutions. In addition to centralising the management of all mosques and madrasahs in the country, AMLA also embedded the fatwa-issuing body in the secular legal system, detailed the fatwa-making process and the appointment of Fatwa Committee members, and outlined the legal reach of state fatwas. As the administration of religious matters was centralised, fatwa-making also got embedded in the state and became part of the religious bureaucracy.

At the same time, state fatwas also represent the rational-legal demands of religious elites. Religious demands are regarded by some as ‘sectoral’, “in the sense that they aim to influence state policies on issues that are seen as crucial from the point of view of a particular sectoral elite... [which] include the expansion of religious institutions, the preservation of orthodoxy against ‘deviant’ ideas, and public morality.”²³⁴ In this light, state fatwas cannot merely be seen as religious instructions that bridge the interests of state and society; they project a set of distinctive demands. Parenthetically this challenges the Weberian perception of religious demise in politics.²³⁵ Various sociological narratives, no doubt influenced by the Weberian approach, present religion as an increasingly obsolete cultural item.²³⁶ Berger’s initial secularisation thesis for example – built upon Weber’s theme and contrasted modernity and tradition as polar opposites – pushes the point further and argues that the weakening role of

²³⁴ Pierret, *Religion and State in Syria*, 163–64.

²³⁵ Max Weber, *Economy and Society: An Outline of Interpretive Sociology*, ed. Guenther Roth and Claus Wittich, 2013.

²³⁶ Bryan S. Turner, *Weber and Islam: A Critical Study*, Max Weber Classic Monographs, v. 7 (London ; New York: Routledge, 1998).

religious institutions would consequently affect the piety of society and its consciousness.²³⁷ Probed further, the Durkheimian model posits that the dilution of religious authority leads to increased individualism, and eventually the society is driven by individual autonomy.²³⁸ In other words, religious authority shifts from institutionalised hierarchies to individual members of the society. This in turn makes individuals the driving force of religiosity, rendering structures of religious authorities redundant.²³⁹ This narrative suggests that while religious authority remains, it is mediated by individual members of the society as the “final assessor[s] of religiosity”, instead of the religious institutions.²⁴⁰ All these claims are questioned by investigating the function of state fatwas in the secular state. As state fatwas all over the world continue to issue religious instructions, their function demonstrates the persistence of institutionalised religious authority, especially as they are legally and bureaucratically entrenched in state structures.

The fatwa institution I examine in this thesis is bureaucratically situated within the ambit of the state and possesses the necessary connections and resources to engage it in shaping relevant policies. This is built upon the formalisation of fatwas’ authority in two channels: legal and bureaucratic recognition. Legal recognition confers state fatwas with legal authority, which is also the most formalised form of authority due to its explicit expressions. This legal recognition can also grant fatwas jurisdiction over certain religious matters even if they happen to contradict secular norms. However there are limitations to this. In cases where state fatwas’ legal authority is not explicit, they are susceptible to challenges in court (as I shall elaborate in Chapter 5). Meanwhile the bureaucratic authority of state fatwas is largely defined by the state; the onus on making them relevant ultimately rests on lawmakers and policymakers. When state fatwas are formally consulted, they get included in the policymaking process. As I will explain in Chapter 4, this invokes their bureaucratic authority such

²³⁷ Peter L. Berger, *The Sacred Canopy: Elements of a Sociological Theory of Religion* (New York: Anchor Books, 1990).

²³⁸ Tole, ‘Durkheim on Religion and Moral Community in Modernity’.

²³⁹ Charles Taylor, *Varieties of Religion Today: William James Revisited*, Institute for Human Sciences Vienna Lecture Series (Cambridge, Mass: Harvard University Press, 2002); Frédéric Volpi and Bryan S. Turner, ‘Introduction: Making Islamic Authority Matter’, *Theory, Culture & Society* 24, no. 2 (March 2007): 4, <https://doi.org/10.1177/0263276407074992>.

²⁴⁰ Volpi and Turner, ‘Introduction’, 13.

that policymakers were forced to carve out policy exemption for Muslims in order to comply to state fatwas.

It is pertinent to note that co-optation can therefore be a mutually beneficial exercise. After all, Saward noted that the co-optation of various actors in the state endows the latter with additional “value” and “expertise”.²⁴¹ This co-optation not only allows the state to control religious demands through regulated channels, but also oversee the management and administration of religious interests through the religious bureaucracy. The relationship between the representatives of the secular and the sacred, evident in the establishment of a religious bureaucracy, also lends legitimacy to the state as it implies a degree of trust between these two parties.

At the same time, the co-optation of actors who can potentially challenge state authority can be advantageous for the co-optee. Especially in authoritarian states, an established legal-bureaucratic connection might be the most crucial factor that grants religious constituents the capacity to affect state decisions. Co-opted religious elites also stand to gain from the this newfound legal-bureaucratic “positional authority”.²⁴² In this context, positional authority allows them to be recognised within an office that connects them to the larger state bureaucracy, and ultimately endows them with the capacity to affect state decisions through policy feedback. Without this legal-bureaucratic authority, it becomes seemingly impossible for interest groups to affect the decisions of the authoritarian state. The formalisation of the ‘expertise’ of religious elites, in this case by issuing fatwas, creates a designated function in the eyes of the state. As state fatwas represent the highest religious office, this also allows them to claim representation of the interest of the Muslim community.

However legal-bureaucratic authority does not fully explain instances when state fatwas circumvent state demands. Indeed, to be effective on the society that they instruct, state fatwas rely not only on these legal and bureaucratic leverages, but also on an informal form of religious authority, which is explained below.

3.4.2 Traditional-Societal Authority

If legal and bureaucratic authorities require formal structural link with the state, traditional-societal authority refers to the informal embeddedness of fatwas: the

²⁴¹ Saward, ‘Cooptation and Power: Who Gets What from Formal Incorporation’.

²⁴² Saward.

unwritten linkages, connections, and relationships that endow them with authority over the Muslim community. This informal form of authority is epitomised in societal consent and adherence to fatwas. Just as fatwas can embed itself in certain state policies, they are also embedded in segments of the society due to a variety of reasons. It might be problematic to condense traditional-legal authority to a single factor, however it can be narrowed down to a combination of fatwas' traditional and historical role, their connection to authentic religious sources, and the charismatic feature of fatwas.

Fatwas exercise traditional-societal authority by transmitting religious instructions. In providing answers to religious questions, fatwas dictate how Muslims should engage everyday issues in modern life. Yet for state fatwas, this societal embeddedness is also aided by their bureaucratisation. In Singapore before the bureaucratisation of fatwas, the Muslim population relied on religious instructions from individual local ulama and overseas muftis.²⁴³ Bureaucratisation facilitated the centralising of local demand for religious decrees and strengthened state fatwas' position in the society. This societal embeddedness is also bolstered by the ulama in charge of issuing fatwas. Since its establishment, the state fatwa body in Singapore has always practised a collective system in which a group of ulama convenes to issue fatwas. These ulama are themselves established individuals who command religious authority in the society. When they issue fatwas, their personal and charismatic authority are then lent to these religious decrees.

In my thesis, I will demonstrate how state fatwas oscillate between legal-bureaucratic authority and informal traditional-societal authority, contingent on the context and actor they deal with. When dealing with the state and legal institutions, state fatwas exhibit proclivity to formalised authority as it adapts to legal and bureaucratic standards. However when dealing with non-state actors state fatwas tend to invoke societal embeddedness by asserting the informal religious authority they already command. In such cases, we can see how state fatwas utilise relational authority to appeal to different audiences and to negotiate religious objectives, which ultimately contribute to informing and defining Statist Islam.

²⁴³ Syed Ahmad Syed Mohamed, 'Menyingkap Perkembangan Institusi Fatwa [Tracing the Development of the Fatwa Institution]', *Warita*, 1999.

This underlines the final point in this section, and that is the type of authority that state fatwas assert is relative to whom they are dealing with. Authoritativeness is necessary for the authority to function, i.e. “the directives of authorities can only be effective when, for whatever reason, people obey them.”²⁴⁴ I contend that it is relevant to examine authority beyond legal-bureaucratic structures, and instead investigate it as an understanding between the ruler and the ruled, “premised on the former’s provision of a social order of value sufficient to offset the latter’s loss of freedom.”²⁴⁵ In settings where the nature of legitimacy is contested, we have to look at how authority is asserted relative to the other actor.

The obligation to comply to the commands of the ruler lies in the consent of the ruled. While a political ruler possesses the ability to exert forms of coercion on the society, e.g. by deploying the security apparatus, for the vast majority of religious institutions today the ability to coerce is severely limited. For many religious elites, ‘coercion’ takes the form of religious reprimands such as reminders of metaphysical rewards and punishments. But when dealing with secular state actors, the appeal of spiritual reprimands is clearly ineffective, so state fatwas invoke various other dimensions of authority to ensure their relevance.

The fluidity of authority can also be used to explain how state fatwa issuers adhere to ‘hard law’ (or a form of it) when dealing with policymakers and the judiciary, and shifting to ‘soft law’ when addressing the Muslim community. In socio-legal studies, soft law refers to instruments that abstain from forcing legal obligations on groups or individuals, at the same time implicitly promoting legal adherence to particular responsibilities and commitments.²⁴⁶ Unlike hard law, soft law is “not restricted to the text of any one convention” or law, and this gives soft law practitioners a “uniquely flexible and independent role,”²⁴⁷ analogous to how state fatwas operate especially when contested by the state. Hard law, explicit in its expressions, dictates the

²⁴⁴ Tom R. Tyler and E. Allan Lind, ‘A Relational Model of Authority in Groups’, in *Advances in Experimental Social Psychology*, vol. 25 (Elsevier, 1992), 117, [https://doi.org/10.1016/S0065-2601\(08\)60283-X](https://doi.org/10.1016/S0065-2601(08)60283-X).

²⁴⁵ David A. Lake, ‘Escape from the State of Nature: Authority and Hierarchy in World Politics’, *International Security* 32, no. 1 (July 2007): 54, <https://doi.org/10.1162/isec.2007.32.1.47>.

²⁴⁶ Nigel Rodley, ‘Non-State Actors and Human Rights’, in *Routledge Handbook of International Human Rights Law*, ed. Scott Sheeran and Nigel Rodley, 2013, 533.

²⁴⁷ Ted Piccone, ‘The Future of the United Nations Special Procedures’, in *Routledge Handbook of International Human Rights Law*, ed. Scott Sheeran and Nigel Rodley, 2013, 727.

formalised authority of state fatwas especially within the AMLA framework that provisions their bureaucratic and legal positions.

However because soft law is depicted as being consistent with the demands of hard law, therein lies the glaring distinction in how this applies to state fatwas. The soft law side of state fatwas does not necessarily match with the written hard law in AMLA that endows them with legal-bureaucratic relevance. The reason for this is because there are two distinct forms of hard law that state fatwas abide by: the secular law (AMLA) that grants them modern relevance, and traditional religious law that is the Shariah. Each set of law is based on their respective legal history, distinct sources, and unique objectives. And when faced between either the secular or religious option, fatwas favour the latter at the expense of the former. As I shall demonstrate later in Chapters 4 and 5, this soft law characteristic allows state fatwas to extend beyond the reach of written law and contest state policies and court judgements. In certain policy negotiations, state fatwas exploited their bureaucratic position to advance religious interest. Similarly when state fatwas were challenged in court, their legal position was debated in light of how AMLA is interpreted. However when their formalised legal-bureaucratic authority was compromised, state fatwas possess an alternative ‘soft’ channel to dictate and affect religious norms. This channel demonstrated how the ‘soft’ side of fatwas persists despite ‘hard’ legal and bureaucratic restrictions.

Yet recent developments – and this will be discussed in Chapter 6 – turned state fatwas into the legal marker of what can and cannot be part of religious teachings in Singapore. This makes for an interesting turn of event that gives state fatwas more hard law attributes. Because the adherence to state fatwas in religious classes used to be voluntary, this transformed what used to be the ‘soft’ adherence of state fatwas into ‘hard’ acceptance. Consequently, this also adds more religious relevance *into* state structures, an ironic outcome of state regulation of religion. As a result, state fatwas gained more relevance and authority to inform religious demands in the state.

3.5 Statist Islam

Building on the concept of state autonomy, it is natural to assume that state authority is not only inherent to conventional state programmes such as economic development and health policies, but also to religious projects.

The amalgamation of state and religious interests is embodied in Statist Islam which has been used to refer to Islamisation projects that seek to consciously manifest the Islamic faith in the state.²⁴⁸ Similarly the manifestation of Buddhism in the state is referred to as a form of “statist Buddhism”, with emphasis on Buddhist religious elites establishing linkages between the religion and the state,²⁴⁹ or even meshing religion in the state apparatus to form a particular national identity.²⁵⁰ My interpretation of Statist Islam however differs in the sense that it does not refer to the immediate efforts of introducing religion in the state, nor associating state structures to religious agendas. Rather Statist Islam is the consequence of efforts by the state, its apparatus, and religious and societal actors; the product of preservation and assertion of each actor’s interests, and the sum of its ramifications both intended and otherwise, exhibited through religious praxis.

In challenging common assumptions about religious elites in authoritarian Southeast Asian states, state fatwas are situated at a prime intersection where state-religious interests collide. This is because the main function of state fatwas is to provide religious instruction for the Muslim community, which at times can be contradictory to state decisions. This problematises the assumption that religious bureaucracies have little or no room to assert their authority and sheds light on how exactly religious elites negotiate, resist, and inform state decisions. This also unravels the relationship of religious elites to the state and other key actors, and reveals complex negotiations and hidden reciprocities, not far from what Menchik argues in the case of Indonesia (which I mentioned earlier).²⁵¹ Kloos aptly reminds us that the “power of the state should not be seen as all-pervasive,” and moving beyond how “Islam has been subjected to a process of domestication by the state”, it is also “crucial” to examine how Muslims “have set limits to this process, either by resisting it, or by becoming part of it.”²⁵²

²⁴⁸ Mohamad, ‘Making Majority, Undoing Family: Law, Religion and the Islamization of the State in Malaysia’; Saravanamuttu, ‘Encounters of Muslim Politics in Malaysia’; Saenong, ‘Statist Islam and Folk Islam Ethnohistory and Muslim Practices in Bantaeng’.

²⁴⁹ Sungtaek Cho, ‘Reconsidering the Historiography of Modern Korean Buddhism: Nationalism and Identity of the Chogye Order of Korean Buddhism’, *Ed. Vladimir Tikhonov and Torkel Brekke. Buddhism and Violence: Militarism and Buddhism in Modern Asia*, 2013, 54–74.

²⁵⁰ Daniel C Lynch, ‘International “Decentering” and Democratization: The Case of Thailand’, *International Studies Quarterly* 48, no. 2 (2004): 339–62.

²⁵¹ Menchik, ‘The Co-Evolution of Sacred and Secular’.

²⁵² D. Kloos, ‘Becoming Better Muslims Religious Authority and Ethical Improvement in Aceh, Indonesia’ (Vrije Universiteit, 2013), 20, <https://research.vu.nl/en/publications/becoming-better-muslims-religious-authority-and-ethical-improvement>.

Therefore, terming the interpretations of the state-friendly ulama as always “in line with the state” could also be disputed through this research.²⁵³ Although the religious bureaucracy in Singapore is an arm of the state, this does not mean that it simply administers state demands. Rather state instructions undergo an extra layer of filter that meshes state demands together with the interest of religious bureaucrats. What I argue here is that there is an overlooked process that leads to the amalgamation of statist and religious interests, and even scenarios where religious demands can come out on top.

I already mentioned that my usage of Statist Islam differs from others who emphasise Islamisation projects which consciously espouse religious interests through the state. Statist Islam here is not an explicit state or social project to ‘stateise’ Islam or Islamise the state. It is not the sole product of domestic politics, but can also be shaped by extraneous factors that arise due to developments elsewhere. These developments particularly concern religious movements and trends, such as the *dakwah* (Islamic missionary) movements of the 1970s and 1980s that swept across Southeast Asia, disenfranchised Muslims who are inspired by the 9/11 terror attack and similar incidents, and more recently security concerns on individuals motivated by violent militant groups in war-torn Iraq and Syria. Because of the variability of these factors, Statist Islam does not refer to a static form of religious orthopraxy; it is constantly in a process of changing and becoming.

The combination of these factors led the most powerful autonomous social institution – the state – placing new boundaries on how religious practices *should* be observed in Singapore. While the state has already set up boundaries designed to regulate religious demand and quell religious activism, these represent only a small scope of measures that affects religious praxis. Which is why it is important to consider both domestic and foreign factors, as well as historical and current developments whose outcome directly and indirectly shapes religious praxis in a country. This relates to a point raised earlier in which I suggested that Islamic institutions represent the amalgamation or “assemblage” of various religious, social, economic, and political interests.²⁵⁴ At the same time the unique, localised factors of each environment where Islamic law is

²⁵³ Aljunied, ‘The Ulama in Singapore and Their Contemporary Challenges’.

²⁵⁴ Peletz, ‘Malaysia’s Syariah Judiciary as Global Assemblage: Islamization, Corporatization, and Other Transformations in Context’.

observed also indicate how Islamic religious sources are accepted in a particular place. This is what Messick argues as he identified the variegated layers of sources of Islamic law, which, at the local level, a unique adherence to certain types of Shariah sources applies.²⁵⁵ A prime example is when classical traditional Islamic sources, such as *fiqh* manuals, are transmitted and interpreted in more contemporary settings in the form of fatwas.

I take the position that the modern state fatwa represents the dominant form of contemporary religious interpretation and instruction, where a combination of factors both theological and exogenous to religious debates manifests, in addition to highly localised factors that affect its outcome. Among these factors, I posit that the regulations put in place by the modern state has the most significant effect on state fatwas, which consequently affects the religious praxis of a specific country. Statist Islam therefore underlines how state decisions affect fatwas, just as it demonstrates how fatwas affect the state. Relating this point to the earlier conception of policy feedback, I have discussed how state policies do not only affect the policy targets, but also the policymakers. This is an often-overlooked aspect especially when discussing state-religious dynamics. As the state enacts new laws to oversee more religious issues, new bureaucratic connections are established which then reconfigure state structures. Through the expansion of religious regulation, these state structures become gradually cognizant of, if not more involved in, addressing religious demands. These are important developments that shape future state decisions concerning religion, which ultimately underlines an important outcome: that as the state regulates more religious affairs, religion becomes more embedded in the state, which ironically increases the role and relevance of state fatwas in state structures.

Taking into account the constantly changing state mechanisms that advertently and inadvertently affect religious praxis, Statist Islam allows for a fuller understanding of the factors that shape how the Islamic belief is practised, which then results in a particular 'brand' of Islam in a country.

²⁵⁵ Brinkley Messick, *Sharīa Scripts: A Historical Anthropology* (New York: Columbia University Press, 2018).

4 Conclusion

This chapter has outlined the analytical framework for researching state fatwas, a crucial form of religious instruction in the modern state. Beginning with the empirical conceptions presented in Islamism and state co-optation of religious institutions, I synthesised these theories to explain the agency and function of state fatwas in the modern state. This is then incorporated into the analytical framework.

To analyse state fatwas, I started with the autonomous state that manages religion through its rigorous policies, resulting in the co-optation and bureaucratisation of religious institutions. This enabled religious elites to affect state decisions through policy feedback. Feedback effect occurs as state fatwas invoke their legal-bureaucratic authority, which then enables a form of state-religious negotiation. The amalgamation of these set of interests and demands manifests in Statist Islam which represents how the Islamic praxis is observed. Statist Islam is rooted first and foremost in the bureaucratic limitation and legal restriction set by the state, and takes into account the relational authority of state-linked fatwas to the state and society, and what this means for religious praxis in a country.

In the context of authoritarian governments, tracing the development of fatwa-making and its embeddedness in the state and society will reveal the nuances and negotiations that take place. Despite the religious objectives of fatwas, it is a grave mistake to dismiss them as irrelevant in a modern secular state. The fact that official state-sanctioned fatwas persist today exhibits the ongoing evolution of religious engagement with the modern state. This contributes to the growing literature on how religion is negotiated and informed in Southeast Asian contexts. Although post-colonial state projects accommodated many religious institutions in the region, there is a gap in addressing the role of religious elites in these projects. This is especially true for state fatwas which represent a key form of religious instruction that possesses the authority to legitimise and challenge the state. There is a dearth of research on how state fatwas function in Southeast Asia, and even more so in comparing how different state-sanctioned fatwa bodies operate in the world today. As such, I draw upon Statist Islam to conceptualise the consequences of shared religious projects involving the state and religious elites. Although state fatwas are constricted by various regulations set by the state, they are also given the capacity to shape a version of state-sanctioned religious orthopraxy.

The empirical component of this thesis begins in the next chapter as I outline the political and social history that led to the creation of a state-linked fatwa institution in Singapore. This will provide proper context for the function and role of state fatwas as they become the vehicle that religious elites utilise to inform, negotiate, and contest state decisions and legal enactments.

Chapter 3: The Governance of Muslims in Singapore

1 Introduction

Fatwas represent a long-standing Muslim tradition that remains observed throughout changes not only in time, but also in different political milieus. The persistence of fatwas signifies their informal traditional-societal authority as they remain present and relevant beyond the state and modern legal recognition. Yet fatwas' formalised functions should not be overlooked because it is the legal and bureaucratic relevance that cements the authority of fatwas in the modern nation-state.

This chapter provides the social and political background for the development of fatwas' formalised authority in Singapore. It seeks to answer an important part of the thesis: how was the modern authority of state fatwas formed? I answer this by looking at the historical development of Singapore's religious bureaucracy which culminated in the formation of a fatwa-issuing institution. By focusing on colonial practices and post-colonial developments, I argue that the bureaucratisation of religion and enactment of Muslim law within the secular legal framework of Singapore not only regulated religious demands, but also transformed fatwas into a form of legally-relevant religious instruction. This also validates the authority of religious elites to affect state decisions through policy feedback. In other words, by tracing the history of the modern religious bureaucracy, this chapter will demonstrate how the 'statist' in Statist Islam came to be.

Islam in Southeast Asia spread by way of tradesmen, holy men, and the expansion of kingdoms.²⁵⁶ A clear majority of Southeast Asian Muslims are Sunnis and follow the Shafi'i *madhhab* or school of thought that guides how religious praxis is observed. Historians have debated whether the arrival of Islam could have originated from the Middle East, India, or even China.²⁵⁷ No matter through which region Islam came to Southeast Asia, religious matters ultimately lie within the domain of local Malay rulers. Therefore religious authority in pre-colonial and colonial Malaya (and even

²⁵⁶ H. J. De Graaf, 'South-East Asian Islam to the Eighteenth Century', in *The Cambridge History of Islam: Volume Undefined: The Indian Sub-Continent, South-East Asia, Africa and the Muslim West*, ed. P. M. Holt, Ann Lambton, and Bernard Lewis, vol. 2A, The Cambridge History of Islam (Cambridge: Cambridge University Press, 1977), 121–54.

²⁵⁷ Moshe Yegar, *Islam and Islamic Institutions in British Malaya: Policies and Implementation* (Jerusalem: Magnes Press, 1979); Hussin Mutalib, *Islam in Southeast Asia*, Southeast Asia Background Series, no. 11 (Singapore: Institute of Southeast Asian Studies, 2008).

Malaysia today) rests on Malay rulers who claim institutional, legal, and traditional legacy. In the past, these rulers appointed various religious officials and qadis (alt. *kadi* or *kathi*) to oversee religious affairs, who became religious judges as well as marriage solemnisers.²⁵⁸ In an era when the law of the land was strongly influenced by Islamic tradition,²⁵⁹ these religious figures conducted marriage ceremonies, and adjudicated and arbitrated in various disputes. They were as relevant back then as today's judges, lawyers, and legal professionals, thus situating them in politically- and socially-elevated positions.

By the turn of the 20th century, however, their religious dominance was challenged. The changing political landscape brought upon by British colonisation changed the legal system and pushed religious law to the periphery. To be precise, the domain of religious law was limited only to marriages, divorces, and inheritance under colonial rule. As Lindsey and Steiner acknowledge, this is also reflected in the use of the word qadi which originally means a religious judge who represents an “authoritative judicial figure of wide jurisdiction.”²⁶⁰ However in the Southeast Asian context today, the curtailed power of qadis effectively reduced the term to refer to “a bureaucratic functionary with responsibility only for officiating at marriages and divorces.”²⁶¹

Yet the restriction of religious law to particular domains did not hinder the observation of religious rituals and practices such as prayers, fasting, and other acts of worship. As long as religious observance persists, there will be a need for instruction, which means that fatwas remained relevant.

The colonial period marked a time when new political and religious identities were forming, necessitating religious elites to bolster claims of authority. The two prominent religious camps at the time were the *Kaum Tua* (Old Faction) and *Kaum Muda* (Young Faction), who represented the traditionalist and reformist factions respectively. The *Kaum Tua* was made up of ulama who were allied to the Malay

²⁵⁸ Ahmad Mohamed Ibrahim, ‘Recent Developments in the Administration of Islamic Law in Malaysia’, *Yearbook of Islamic and Middle Eastern Law* 3, no. 1 (1996): 117–29; Siti Zubaidah Ismail, ‘At the Foot of the Sultan: The Dynamic Application of Shariah in Malaysia’, *Electronic Journal of Islamic and Middle Eastern Law (EJIMEL)* 3 (2015): 69–81; Kamali, ‘Islamic Law in Malaysia’; R. O. Winstedt, ‘Old Malay Legal Digests and Malay Customary Law’, *The Journal of the Royal Asiatic Society of Great Britain and Ireland*, no. 1 (April 1945): 17–29; Anthony C Milner, ‘Islam and Malay Kingship’, *Journal of the Royal Asiatic Society* 113, no. 1 (1981): 46–70.

²⁵⁹ Milner, ‘Islam and Malay Kingship’.

²⁶⁰ Lindsey and Steiner, *Islam, Law and the State in Southeast Asia: Singapore*, II:27.

²⁶¹ Lindsey and Steiner, II:27.

ruling class.²⁶² They typified the religious bureaucrats of their time and were positioned to inform the state about Islam. The *Kaum Muda* were the religio-political reformists who emerged at the turn of the 20th century. They were widely influenced by the ideas of Islamic clerics trained in Egypt and Europe, namely Jamaluddin al-Afghani and Muhammad Abduh who marked their presence by seeking political reform to what they deemed as the corrupt Ottoman Empire.²⁶³ As these ideas spread in the Middle East, and given the region's reputation as a seat of Islamic education, Malayan students who went there to read religion were also exposed to reformist ideas.²⁶⁴ It was no surprise that upon their return, some of them began to blame Malay rulers for colonial dominance and religious decline, and called for reform.²⁶⁵

The *Kaum Muda* embarked on their reformist projects by establishing schools and magazines to disseminate their ideas.²⁶⁶ Among the key vehicles to lend legitimacy to their cause were fatwas. These reformists pegged their religious authority to established religious figures by importing fatwas from the Middle East to support their movement. These fatwas were disseminated through their preferred media platforms of magazines and journals to chip away at the authority of the *Kaum Tua* religious bureaucrats who were seen as part of the problem.²⁶⁷ They criticised the religious orthodoxy of the 'old school' and condemned certain ritual practices as deviations.²⁶⁸

This threatened the authority and dominance of state-linked Islam. In response, state-linked *Kaum Tua* ulama used various means to preserve their authority against the

²⁶² William Roff, 'Patterns of Islamization in Malaysia, 1890s-1990s: Exemplars, Institutions, and Vectors', *Journal of Islamic Studies* 9, no. 2 (July 1998): 210–28.

²⁶³ Mohammad Redzuan Othman, 'Kejatuhan Khalifah Uthmaniyah Dan Kenaikan Kamal Di Turki: Reaksi Orang Melayu [The Downfall of the Ottoman Caliphate and the Rise of Kamal in Turkey: The Reaction of the Malays]', in *Daulah Uthmaniyah Dan Alam Melayu: Detik Kejatuhan Khilafah Islamiyah Di Turki 1924 Dan Reaksi Orang Melayu [The Ottoman Empire and the Malay World: The Downfall of the Islamic Caliphate in Turkey in 1924 and the Reaction of the Malays]*, ed. Farid Mat Zain (Shah Alam: Karisma Publications, 2009), 194–241.

²⁶⁴ William Roff, 'Indonesian and Malay Students in Cairo in the 1920's', *Indonesia* 9 (April 1970): 73–87; Liow, *Piety and Politics: Islamism in Contemporary Malaysia*.

²⁶⁵ Othman, 'Kejatuhan Khalifah Uthmaniyah Dan Kenaikan Kamal Di Turki: Reaksi Orang Melayu [The Downfall of the Ottoman Caliphate and the Rise of Kamal in Turkey: The Reaction of the Malays]'; Mohammad Redzuan Othman, 'The Ottoman's War with the Europeans (1912-1914): A Paradigm Shift in the Development of Malay Political Thought', *Jebat* 23 (1995): 89–96.

²⁶⁶ Roff, 'Patterns of Islamization in Malaysia, 1890s-1990s: Exemplars, Institutions, and Vectors'.

²⁶⁷ Mohammad Redzuan Othman and Abu Hanifah Haris, 'The Role of Egyptian Influences on the Religious Dynamics and the Idea of Progress of Malaya's Kaum Muda (Young Faction) before the Second World War', *British Journal of Middle Eastern Studies* 42, no. 4 (2 October 2015): 465–80, <https://doi.org/10.1080/13530194.2015.1005965>.

²⁶⁸ Muhamad Ali, *Islam and Colonialism: Becoming Modern in Indonesia and Malaya* (Edinburgh University Press, 2015), 180.

newcomers.²⁶⁹ They had access to various legal and administrative measures that gave them powers to oversee other religious institutions such as mosques and madrasahs, which essentially enabled them to determine what was “properly Islamic” in the Muslim community.²⁷⁰ In addition to that, fatwas were also utilised to preserve their religious authority. Fatwas were therefore issued to defend their traditionalist position,²⁷¹ and to attack the reformists by labelling them as deviants.²⁷²

The brief example above illustrates the significance of fatwas as an instrument of authority and legitimacy. It shows how the authority of fatwas manifested itself in state-linked religious bureaucracy. More than a century later, the reformists evolved into new entities, breaking into groups and offshoots and even influential political parties, namely the Pan-Malaysian Islamic Party (Parti Islam Se-Malaysia or PAS). The traditionalist religious bureaucrats evolved over time by weaving religious influences within existing bureaucratic designs. In the midst of these changes, fatwas remain a central instrument to assert religious authority not only against other religious elites but also the modern state.

The relevance of fatwas in the state is linked to their legal-bureaucratic authority. The positional advantage that came with the bureaucratisation and co-optation of religion gave the co-optees (in this case the religious bureaucrats) the authority to assert their demands in the modern state. In this context, their authority is asserted through a series of vehicles, the most crucial of which are fatwas. Compared to, for example legal enactments that ban certain religious classes, the fluidity of fatwas can transcend almost any state restriction and legal limitations, allowing them greater flexibility in shaping and influencing both religious observance and state decision. This is because there are two very extensive forms of authority that fatwas rely on. At the very basic level, fatwas assert traditional-societal authority which enables it to influence the religious praxis of a Muslim community. State fatwas are also endowed with some form of legal and bureaucratic backing, the sum of which is embodied in their legal-

²⁶⁹ Rahim, ‘Traditionalism and Reformism Polemic in Malay–Muslim Religious Literature’.

²⁷⁰ Roff, ‘Patterns of Islamization in Malaysia, 1890s-1990s: Exemplars, Institutions, and Vectors’, 214.

²⁷¹ Ali, *Islam and Colonialism: Becoming Modern in Indonesia and Malaya*, 182; Rahim, ‘Traditionalism and Reformism Polemic in Malay–Muslim Religious Literature’.

²⁷² Yuki Shiozaki, ‘The Historical Origins of Control over Deviant Groups in Malaysia: Official Fatwá and Regulation of Interpretation’, *Studia Islamika* 22, no. 2 (2 September 2015): 222, <https://doi.org/10.15408/sdi.v22i2.1917>.

bureaucratic authority. This legal-bureaucratic authority is the product of linking fatwas to modern state bureaucracy, thus increasing their capacity to affect state decisions through policy feedback. As a result, state fatwas can affect both state decisions as well as shape the religious praxis of the Muslim community who seeks religious instructions, even if the two set of demands are somewhat contradictory, which I will elaborate in the next chapter.

For this chapter, I will focus on how fatwas became relevant to the modern state in the first place. In Singapore today where religion is highly regulated, co-opted religious bureaucrats consciously tolerate, if not embrace the authoritarian secular government. These efforts result in distinct political outcomes. Careful scrutiny of state fatwas therefore allows us to examine how religious demands are asserted in the modern state. As an important form of religious instruction embedded in state bureaucracy, state fatwas exemplify the negotiation of religious demands with the state from a subordinate position, given the bureaucratic hierarchy of the administration of Muslim affairs. Examining state fatwas provides a grounded analysis of the impact of religious ideas on state decisions and vice versa. In the process, my research reveals how the authority of state fatwas is exercised beyond the intended purpose outlined in the legislation, and indeed can serve as a platform for the state to reach out to society.

The following discussion is structured into three main parts. The first part will examine the brief history of religious bureaucracy in colonial Singapore through the 1880 Mohammedan Marriage Ordinance. This is the first legal enactment in colonial Singapore that recognised the function of Islamic religious elites. The next part will analyse the post-colonial development of religious law and bureaucracy by looking at the 1965 Constitution of Singapore that specifically mentioned the protection of native religious rights. I will also discuss the Administration of Muslim Law Act (AMLA) which allowed for the establishment of the Fatwa Committee (formally known as the Legal Committee), as well as the sections in AMLA pertaining to fatwa issuance. The final part will conclude and underline how a combination of political and societal developments led to the creation of a centralised religious bureaucracy and cemented the authority of fatwas in the modern state.

2 The Colonial Administration

2.1 The Mohammedan Marriage Ordinance (1880)

The Mohammedan Marriage Ordinance of 1880 is a remarkable symbol of religious bureaucracy in the colonial period. The ordinance essentially rebooted the administration of Islamic law into centralised religious order and paved the way for later amendments that cemented religious bureaucracy in the secular state.

Up until the colonial time, Singapore was ruled by the Johor Sultanate. Various sultanates in the Malay Peninsula were known to have appointed Islamic religious bureaucrats as officials, advisors, muftis, and qadis.²⁷³ One of the earliest recorded involvement of the state mufti in the Johor Sultanate was in 1895, when he witnessed the proclamation of the Johor State Constitution (*Undang-Undang Tubuh Kerajaan Johor*).²⁷⁴ It was highly likely, however, that the position of the Mufti of Johor existed much earlier than that given the recorded presence of muftis in other Malayan Sultanates including Malacca, from which the Johor Sultanate originated.²⁷⁵

Although Singapore initially remained under the Johor Sultanate when the British arrived in 1819, it was only five years later in 1824 that the sultanate was made to “cede, in full sovereignty and property, to the Honourable the English East Indian Company, their heirs and successors for ever, the island of Singapore.”²⁷⁶ Under colonial rule, secular law superseded Islamic law, although segments of Islamic family law pertaining to marriage, divorce, and inheritance were specifically exempted.²⁷⁷ As Stamford Raffles, credited for the British takeover of Singapore, noted: “In all cases regarding the ceremonies of religion and marriages and the rules of inheritance, the

²⁷³ Kamali, ‘Islamic Law in Malaysia’; Ismail, ‘At the Foot of the Sultan: The Dynamic Application of Shariah in Malaysia’; Ibrahim, ‘Recent Developments in the Administration of Islamic Law in Malaysia’.

²⁷⁴ ‘Latar Belakang Jabatan Mufti Johor [Background of Johor Mufti Department]’, *Jabatan Mufti Johor* (blog), n.d., <http://mufti.johor.gov.my/profil/latar-belakang-jabatan-mufti-johor>.

²⁷⁵ Milner, ‘Islam and Malay Kingship’.

²⁷⁶ Thomas John Newbold, *Political and Statistical Account of the British Settlements in the Straits of Malacca, Viz. Pinang, Malacca, and Singapore: With a History of the Malayan States on the Peninsula of Malacca*, vol. 1 (London: J. Murray, 1839), 490, <https://books.google.co.uk/books?id=KkwPAAAAMAAJ>; CH Wake, ‘Raffles and the Rajas: The Founding of Singapore in Malayan and British Colonial History’, *Journal of the Malaysian Branch of the Royal Asiatic Society* 48, no. 1 (227) (1975): 47–73.

²⁷⁷ Even then, historians noted that in the colonial period, Islamic law was relegated to the extent there were no proper Islamic courthouses in most states and their staffs were neglected. See CM Turnbull, *A History of Singapore: 1819 - 1975* (Kuala Lumpur: Oxford University Press, 1985), 22.

laws and custom of the Malays will be respected, where they shall not be in contrary to reason, justice or humanity.”²⁷⁸

After the British took control of Singapore in perpetuity, things began to change for the Muslims in the country. The ratio of the Malay-Muslim population quickly decreased; in 1824, the Malays still formed the largest community in Singapore,²⁷⁹ but by 1827, the ethnic Chinese community overtook them to form some 65 per cent of the population.²⁸⁰ In the process of becoming a Straits Settlement, Singapore was then declared ‘uninhabited’, which meant that Islamic law could not be part of the law except through ordinance, and that the customary Malay laws were “neither respected nor enforced at any point in the history of the Straits Settlements.”²⁸¹ In essence, English law overwrote local customary laws.

There were therefore no state-linked religious institutions that could administer Islamic law in colonial Singapore. The authority linked to such institutions, which would have been under the jurisdiction of a sultan, was shifted to individual religious elites. This was because unlike in the Malay states where the traditional Malay rulers remained the highest authority of religious affairs, the British had ousted the rulers from Singapore. The dissociation of the state from the administration of Islamic law therefore pushed the responsibility wholly towards individual religious elites such as communal qadis and imams.²⁸² Thus Singapore’s highest religious authority were the ulama class, meaning that the qadis and other religious officials rose to become influential social actors.²⁸³ In such a scenario, the legal status of Islamic religious observances also became increasingly problematic as both British and Islamic laws were observed, leading to a “complex combination of judicial precedent and statutory

²⁷⁸ Ahmad Nizam Abbas, ‘The Islamic Legal System In Singapore’, *Pacific Rim Law & Policy Journal* 21, no. 1 (2012): 164.

²⁷⁹ Charles Burton Buckley, *An Anecdotal History of Old Times in Singapore: From the Foundation of the Settlement under the Honourable the East India Company on February 6th, 1819 to the Transfer to the Colonial Office as Part of the Colonial Possessions of the Crown on April 1st, 1867* (Singapore ; New York: Oxford University Press, 1984), 154.

²⁸⁰ Turnbull, *A History of Singapore: 1819 - 1975*, 36.

²⁸¹ Nurfadzilah Yahaya, ‘Craving Bureaucracy: Marriage, Islamic Law, and Arab Petitioners in the Straits Settlements’, *The Muslim World* 105, no. 4 (1 October 2015): 509, <https://doi.org/10.1111/muwo.12108>.

²⁸² An imam is a generic title for a religious leader, as well as the person who leads prayers especially in mosques.

²⁸³ Osman, ‘The Religio-Political Activism of Ulama in Singapore’, 2.

intervention”²⁸⁴ which Hooker labelled the “Anglo-Malay *madhhab*”²⁸⁵ (school of law).

While these religious elites were left to administer Islamic law with minimal state intervention, this also meant that religious authority was dispersed. The voluntary recognition of qadis led to disputes between various parties; after all each community selected its own qadi to administer Islamic law.²⁸⁶ The problem was illustrated in an 1878 case when a qadi solemnised the wedding between a non-Arab man and an Arab woman without her guardian’s consent. Her uncle asked the colonial court to have the marriage annulled because, according to the predominantly observed Shafi’i *madhhab*, the marriage is contingent on guardian consent. The Shāfi’i *madhhab* or school is the predominant school of Islamic law observed in Southeast Asia. The judge however consulted the manual of another established *madhhab* that allows a woman to select her suitor without guardian consent, and had the case dismissed.²⁸⁷

Arab merchants had long petitioned for the appointment of official qadis in Singapore to make the registration of marriages and divorces compulsory and properly recorded.²⁸⁸ An official qadi and centralised registration of marriage would guarantee confidence and standardise record-keeping, which would then benefit frequent travellers such as the Arab merchants. Due to the arbitrary nature of qadi rulings, there were cases in which upon the return from one of these travels, Arab merchants found their wives to have been unceremoniously separated from them.²⁸⁹ This petition for a centralised qadi was eventually accepted by the British. In 1880, the British acknowledged the status of Islamic personal law with the enactment of the Mohammedan Marriage Ordinance. (See Figure 2)

Each of the Muslim community of Singapore – the Malay, Indian, and Arab ethnic groups – already had their self-appointed qadis who were recognised by the state (although they had no official positions).²⁹⁰ The ordinance changed this by making the appointment of qadis a government undertaking, i.e. by allowing the Governor of

²⁸⁴ Abbas, ‘The Islamic Legal System In Singapore’, 165.

²⁸⁵ Hooker cited in Lindsey and Steiner, *Islam, Law and the State in Southeast Asia: Singapore*, II:5.

²⁸⁶ ‘The Legislative Council’, *Straits Times Overland Journal*, 12 July 1880.

²⁸⁷ Yahaya, ‘Craving Bureaucracy: Marriage, Islamic Law, and Arab Petitioners in the Straits Settlements’.

²⁸⁸ Yahaya.

²⁸⁹ Yahaya, 503.

²⁹⁰ Yegar, *Islam and Islamic Institutions in British Malaya*, 149.

Singapore to appoint official qadis and religious officials,²⁹¹ and established qadi courts with exclusive jurisdiction over Muslims.²⁹² Furthermore a “Mahomedan Registrar” was appointed to oversee the duties of these qadis.²⁹³ This marked the rebooting of religious bureaucracy in Singapore, and effectively placed these religious bureaucrats on the same level as civil servants.²⁹⁴

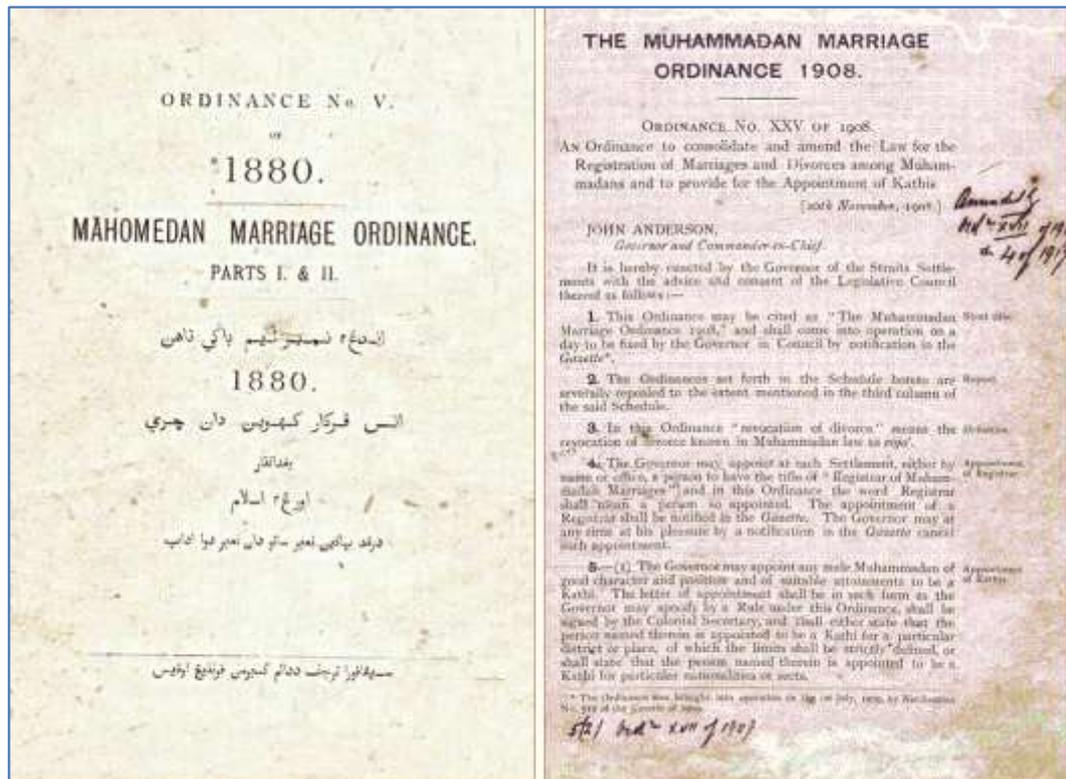


Figure 2 The Mohammedan Marriage Ordinance of 1880 and 1908

Whatever was the catalyst for its establishment, the 1880 Mohammedan Marriage Ordinance underlined how linking religious administration to state authority involves a more complex dynamic rather than a one-way statist usurpation of religious institutions. This episode also demonstrated that the state is an important component in the administration of Islamic law. This is because the state has the power to bureaucratise and centralise the various autonomous religious elites under one single

²⁹¹ Abbas, ‘The Islamic Legal System In Singapore’, 165.

²⁹² Ann Black, ‘Lessons From Singapore An Evaluation Of The Singapore Model Of Legal Pluralism’, *Asian Law Institute Working Paper*, no. 026 (July 2012): 10.

²⁹³ Yegar, *Islam and Islamic Institutions in British Malaya*, 149.

²⁹⁴ Yahaya, ‘Craving Bureaucracy: Marriage, Islamic Law, and Arab Petitioners in the Straits Settlements’, 512.

enactment. In doing so, the bureaucratisation also fosters better record-keeping practices, one of the motivations behind the new law. More importantly, the development of religious bureaucracy in Singapore showed how the interests and demands of religious elites came to be intertwined in state and legal structures. This shall have an enduring effect even for religious rulings and fatwas, as we shall see later.

3 Post-colonial Religious Affairs

3.1 The Constitution of Singapore

The 1880 Mohammedan Marriage Ordinance was just the beginning of the bureaucratisation of Islamic institutions in Singapore. Since then and up to Singapore's independence in 1965, there were gradual increments to facilitate the administration of Islamic law in the country. Amendment to the initial Ordinance in 1908 made marriage and divorce registration compulsory, and imposed fine and imprisonment for offenders.²⁹⁵ Another 1923 amendment saw the legal recognition of Muslim intestate law or *farā'id*.²⁹⁶ There were several other amendments that allowed qadis to adjudicate claims of dowries and maintenance, and empowered the Registrar to arbitrate conflicts between qadis and manage appeals against their decisions.²⁹⁷

A centralised body, the Muslim Endowment Board, was also established in 1906 “to promote social welfare and establish colonial oversight of Muslim philanthropy.”²⁹⁸ This was followed by the creation of the Mohammedan Advisory Board in 1915 to advise the colonial power on matters pertaining to Islamic affairs.²⁹⁹ It is worthy to note that the creation of the Mohammedan Advisory Board was described as an “emergency” measure,³⁰⁰ in part to advise the colonial government on Muslim affairs and supervise religious groups.³⁰¹ This ‘emergency’ measure stemmed from the mutiny of a group of Indian-Muslim British soldiers in February of 1915 when they pledged allegiance to the Ottomans in World War I. These soldiers from the 5th Light Infantry of the Indian Army took up arms, seized ammunitions from barracks, and

²⁹⁵ Lindsey and Steiner, *Islam, Law and the State in Southeast Asia: Singapore*, II:29.

²⁹⁶ Abdullahi An-Na'im, 'Malaysia', *Islamic Family Law* (blog), accessed 23 March 2018, <https://scholarblogs.emory.edu/islamic-family-law/home/research/legal-profiles/malaysia/>.

²⁹⁷ Lindsey and Steiner, *Islam, Law and the State in Southeast Asia: Singapore*, II:30.

²⁹⁸ Lindsey and Steiner, II:23.

²⁹⁹ Yegar, *Islam and Islamic Institutions in British Malaya*.

³⁰⁰ Yegar, 99.

³⁰¹ Osman, 'The Religio-Political Activism of Ulama in Singapore', 2.

freed German prisoners of war who were being held in Singapore. The mutiny lasted a week and resulted in 26 deaths. It was eventually quelled with the help of British allied forces. After the rebellion, the mutineers were court martialled and sentenced to transportation for life or public execution by firing squad. To prevent similar occurrences, the British not only mandated compulsory military service on all adult males and created a reserve voluntary force, but also established the Mohammedan Advisory Board to regulate religious movements. This cemented the role of a centralised religious administrative body within the British colonial government. Over time, more Islamic religious institutions were recognised by the government. In 1957, the Muslim Ordinance was introduced, and led to the formation of the Syariah Court, formally institutionalising the management of Muslim marriages and divorces in Singapore.³⁰²

Despite these developments, the official fatwa body was a relatively late addition to the religious bureaucracy. The appointment of a state mufti was already mooted during the colonial period,³⁰³ however the seat was instituted only after independence. One reason for this was that the void left by the lack of state fatwas could be filled rather easily by other fatwa issuers both locally and abroad. There was no official mufti in colonial Singapore up until independence, a period that lasted for about one and a half century. As there was no single individual or institution formally appointed to issue fatwas, petitioners would ask their respective religious teachers for fatwas, as well as the state-appointed qadis and registrar. Other informal avenues to source for fatwas were religious programmes through the radio, books, and even pamphlets.³⁰⁴ Members of the Singapore Muslim community were essentially free to choose fatwas which suited their interests, which risked stripping fatwas of their sophisticated, contextualised development. In these early variations of ‘fatwa-shopping’, religious questions were also directed to overseas muftis in nearby Johor, and even as far as

³⁰² Osman argued that the state accommodated for the legal revisions in order to gain Muslim support against communist influences at the time. See Osman, 3; Bryan S. Turner, ‘Soft Authoritarianism, Social Diversity and Legal Pluralism’, in *The Sociology of Shari’a: Case Studies from around the World*, ed. Adam Possamai, James Richardson, and Bryan S. Turner (Springer International Publishing, 2015), 71.

³⁰³ Yegar, *Islam and Islamic Institutions in British Malaya*.

³⁰⁴ Syed Mohamed, ‘Menyingkap Perkembangan Institusi Fatwa [Tracing the Development of the Fatwa Institution]’.

Egypt.³⁰⁵ This, of course, changed with the establishment of a central and official fatwa body later, which was given legal relevance and bureaucratic power.

When the Crown Colony was dissolved in 1963, Singapore became part of Malaysia. However this short-lived merger ended just two years later when they separated. Upon independence from Malaysia, Singapore had inherited a “particular mode of integrating Islamic law into the law of the state.”³⁰⁶ It can also be said that Singapore’s accommodation of Islamic law in the legal system was inspired by its merger to Malaysia; despite earlier plans for a central Islamic body in Singapore,³⁰⁷ the eventual establishment of a centralised administrative religious body followed Malaysia’s own National Council for Islamic Affairs.³⁰⁸ During the Malaysia-Singapore merger from 1963 to 1965, the Malaysian king became the highest Islamic authority for the Malaysian states which then included Singapore. Plans were then in place to create a religious advisory body to the Malaysian king, and Singapore – being part of Malaysia – was obliged to have established a Council of Muslim Religion to advise the king on religious matters.³⁰⁹

While the merger was short-lived, the proposed Islamic council remained, a development which can be attributed to several reasons. For one, the separation from Malaysia forced the Singapore state to take measures to placate the Malay-Muslim constituency in Singapore.³¹⁰ Domestically, memories of the 1964 racial riots in Singapore were still fresh. The riots saw two big clashes between the Malay-Muslim and non-Muslim ethnic Chinese groups. The first clash transpired after a religious celebration in July 1964 which led to the death of 23 people. In September the same year another riot led to the death of 13 people. In total, more than 500 people were injured and close to 5,000 were arrested.³¹¹ Externally, there were also threats from the large southern neighbour Indonesia which had opposed Singapore’s merger with Malaysia, and even bombed various targets in Singapore. Regionally, Singapore forms

³⁰⁵ Syed Mohamed; Yahaya, ‘Craving Bureaucracy: Marriage, Islamic Law, and Arab Petitioners in the Straits Settlements’, 499.

³⁰⁶ Abbas, ‘The Islamic Legal System In Singapore’, 165.

³⁰⁷ ‘Central Body for Muslims’, *The Straits Times*, 24 February 1948, 8.

³⁰⁸ ‘Muslim Law’, *The Straits Times*, 8 December 1960, 8.

³⁰⁹ Siddique, ‘The Administration of Islam in Singapore’.

³¹⁰ Siddique.

³¹¹ Jamie Han, ‘Communal Riots of 1964’, *Infopedia* (blog), n.d., http://eresources.nlb.gov.sg/infopedia/articles/SIP_45_2005-01-06.html.

part of a larger Malay-Muslim region. Where Malay-Muslim sultanates once ruled, they were replaced by countries that link political authority to religious legitimacy. The Malay-Muslims in Singapore briefly became the majority group when Singapore joined Malaysia. Separation from Malaysia returned them to minority status. These domestic and regional tensions required reassurances that native Malay ethnic and religious interests were protected upon Singapore's independence. More importantly, they created the necessary structural potentials that pressured the Singapore state to allow religious elites to play a participatory role in the new nation.

As a result, Singapore's new constitution, enacted in December 1965, accorded constitutional provisions to the native Malay ethnic population, as well as their associated religion Islam. In the Constitution of Singapore, part XIII on General Provisions begins with Article 152 on Minorities and Special Position of Malays. Article 152(2) of the constitution ensures the state's role in regulating not only social, but also religious interests: (emphasis mine)

The Government shall exercise its functions in such manner as to recognise the special position of the Malays, who are the indigenous people of Singapore, and accordingly it shall be the responsibility of the Government to protect, safeguard, support, foster and promote their political, educational, *religious*, economic, social and cultural interests and the Malay language.

Furthermore the constitution also recognises the need for an Islamic religious bureaucracy in the state. This can be attributed to the local and regional factors that I mentioned above, which underlined the critical support of statehood by political as well as religious elites. This also means that the interests of state and religious elites became intertwined through legal and bureaucratic links, which then created new avenues for the control (and expansion) of religious demands. The initial plan for the Malaysian-inspired Council of Muslim Religion was therefore incorporated in the constitution,³¹² as Article 153 specifically provisioned:

³¹² Noor Aisha Abdul Rahman, 'Muslim Personal Law and Citizens' Rights: The Case of Singapore', *Asian Journal of Comparative Law* 7 (2012): 5–6.

The Legislature shall by law make provision for regulating Muslim religious affairs and for constituting a Council to advise the President in matters relating to the Muslim religion.

The recognition of native Malay-Muslim religious rights in the Constitution of Singapore depicts the evolution of Islamic law in the secular legal framework. Such provisions were codified in earlier ordinances, beginning with the Mohammedan Marriage Ordinance in 1880 and its subsequent amendments. The religious bureaucracy was further institutionalised through various bodies such the Mohammedan Advisory Board, set up following the 1915 mutiny to regulate and manage religious affairs in a perilous period. Upon independence, a different set of conditions called for a somewhat similar approach: the creation of a state-recognised religious administrative body in Singapore. The demands of various Muslim groups to participate in “the governing of the state”³¹³ and “implement the shari’a”³¹⁴ were eventually successful as the circumstances facilitated this upon Singapore’s separation from Malaysia. The 1965 Constitution of Singapore affirms the role of the state in the regulation of Muslim religious affairs. It not only guarantees a centralised administration of Islamic religious affairs but also embeds the role of religious institutions in the modern bureaucracy.

It was therefore clear that the precarious emergence of a small, independent state required explicit support not only from political elites, but also religious elites. For the state, this meant giving up its resources and opening up access for religious demands. For the religious elites, having a centralised religious administration linked to the state which manages everything from mosques to madrasahs threatens their autonomy, yet ensures their relevance through formal institutions and legislations. Ultimately, the premise that such a move would preserve each group’s respective authority motivated the formalisation of this relationship and gave birth to the modern Islamic religious bureaucracy in Singapore.

3.2 The Administration of Muslim Law Act (AMLA)

Building on these constitutional guarantees, the AMLA was enacted in 1966 and superseded all previous Islamic law ordinances. The jurisdiction of the Syariah Court

³¹³ Siddique, ‘The Administration of Islam in Singapore’, 324.

³¹⁴ Siddique, 325.

– established in 1957 – was outlined in AMLA. Two new institutions were also formed: The Registry of Muslim Marriages and Majlis Ugama Islam Singapura (Islamic Council of Singapore or MUIS). MUIS is the administrative body with wide-ranging jurisdiction over Islamic affairs. It holds the key to vital financial resources by managing *zakat* (compulsory alms) and properties endowed for Islamic religious cause or *waqf*. The institution also oversees madrasahs, mosques, and hajj matters. More pertinently to this research, a fatwa body was also formed under MUIS. The establishment of a central fatwa issuer relegated the position of other fatwa-givers and marked the assimilation of fatwas into state machinery, thus endowing it with new legal-bureaucratic authority.

The establishment of AMLA was made with substantial contributions from various religious elites.³¹⁵ The invested efforts of religious elites in drawing up AMLA was evident as a good number of those consulted was among the ulama who represented various political and religious organisations, including a mosque.³¹⁶ Furthermore, the President of the Syariah Court at the time, who was later appointed the first Mufti of Singapore, was also included in these meetings.³¹⁷ Substantial consultations with religious elites mitigated the worries of forming a new country; as mentioned earlier Singapore's internal social divide and external threat meant that new policies cannot be another source of disruption, especially at such an early juncture of statehood. The co-optation of religious elites effectively made AMLA a collective effort and situated them in a position to align their interests with the state as both groups attempted to exercise their demands within a common framework.

Prior to AMLA, the administration of Islamic law was limited to marriage, divorce, and inheritance laws through the Syariah Court. As AMLA stipulated the appointment of a state mufti and a fatwa-issuing committee, this enactment single-handedly unified all petitioners to one source. Although the committee is formally referred to in AMLA as the Legal Committee (*Jawatankuasa Fatwa*), it is commonly known as the Fatwa

³¹⁵ Osman, 'The Religio-Political Activism of Ulama in Singapore'; Hussin Mutalib, 'Singapore Muslims: The Quest for Identity in a Modern City-State', *Journal of Muslim Minority Affairs* 25, no. 1 (April 2005): 53–72.

³¹⁶ 'Report Of The Select Committee On The Administration Of Muslim Law Bill', 1 (Parliament Of Singapore, 1966).

³¹⁷ 'Report Of The Select Committee On The Administration Of Muslim Law Bill'.

Committee (which is also the term I will use henceforth).³¹⁸ The Fatwa Committee is made up of both salaried religious bureaucrats as well as volunteer ulama, who issue fatwas collectively. The Fatwa Committee is linked to MUIS through its secretariat known as the Office of the Mufti, which operates as a department in MUIS. (See Figure 3) In this sense, the Fatwa Committee is somewhat removed from the direct hierarchy linking it to the main administrative body MUIS that oversees a significant part of Islamic religious affairs in Singapore. Yet the role of religious bureaucrats in the Fatwa Committee should also not be understated.

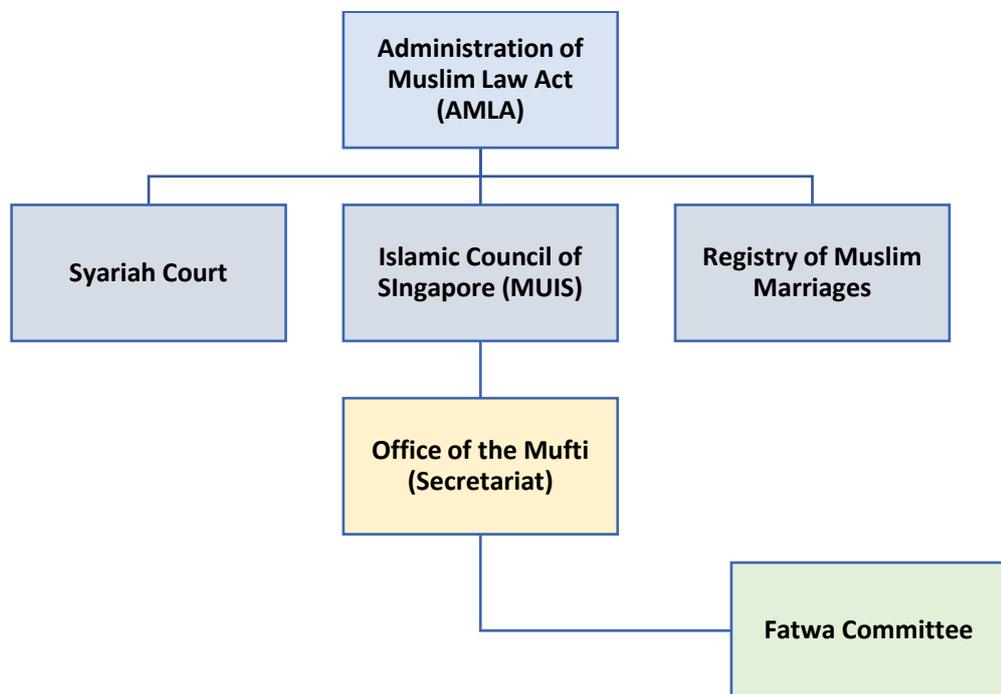


Figure 3 A simplified organisational hierarchy of the Fatwa Committee

While AMLA provides state fatwas with legal authority, MUIS is the key connection through which bureaucratisation occurs. Despite that, MUIS, by definition, does not quite embody ‘the State’. This is because the original purpose and intent of its creation was as a statutory board. As a statutory board, MUIS claims organisational autonomy

³¹⁸ See for example Bakaram, ‘Theories of Ifṭā’ in Islamic Law with Special Reference to the Shāfi‘ī School of Law and Their Application in Contemporary Singapore’; Nazirudin Mohd Nasir, ed., *Fatwas of Singapore: Science, Medicine, and Health*, vol. 1 (Singapore: Majlis Ugama Islam Singapura, 2017).

while remaining answerable to the Minister-in-Charge of Muslim Affairs, who is taken as the key representative of ‘the State’.

I should briefly note here that my thesis does not address specific politicians, parties, or government department due to the fact that Singapore’s political system has, since independence, been continuously ruled a single party: the People’s Action Party (PAP). For a period of more than five decades, a particular style of governance has cemented itself in state bureaucracy. As a result, an authoritarian political culture has developed and established itself in state and state-linked structures, so much so that the military, civil service, and even academia are turned into bases of support for the ruling party.³¹⁹ This should be seen in relation to the theory of state autonomy which I have presented, as the creation of new bases of support marks the expanding boundary of *where* the autonomous state lies. The state is therefore considered a collective actor against the fatwa institution. Therefore while my research explores the legal-bureaucratic boundary between the fatwa institution and the state, it does not seek to further distinguish where the boundary lies between the state’s various components which the fatwa institution deals with, The relevant components of the state, ranging from the prime minister, to the president, to the party, are therefore not singled out in the thesis. However what is pertinent enough to be mentioned is the point of contact between the fatwa issuers and the state, which in this case are the Minister-in-Charge of Muslims Affairs, whom the religious bureaucracy answers to, as well as various Muslim parliamentarians who were recorded to have directly petitioned or at least interjected in the fatwa-making process.

As mentioned above, the fatwa body is housed in MUIS, which in itself is a statutory board. Statutory boards in Singapore were created in order to exercise flexibility in pursuing objectives set by the state, compared to the supposed rigidity they face if they were a proper department in a government ministry.³²⁰ Statutory boards like MUIS therefore, on paper, enjoy a degree of autonomy and are expected to demonstrate better efficiency of resources.³²¹ Yet I have also pointed out how the Singapore state

³¹⁹ Khong, ‘Political Legitimacy through Managing Conformity’.

³²⁰ Jon S. T. Quah, *Public Administration Singapore-Style* (Bingley, UK: Emerald, 2010); D.K. Mauzy and R.S. Milne, *Singapore Politics Under the People’s Action Party*, Politics in Asia (London; New York: Taylor & Francis, 2002), <https://books.google.co.uk/books?id=6zrYd4-ExqAC>.

³²¹ Thomas J. Bellows, ‘Bureaucracy and Development in Singapore’, *Asian Journal of Public Administration* 7, no. 1 (June 1985): 55–69, <https://doi.org/10.1080/02598272.1985.10800420>.

constantly regulates domains of contestation, and therefore it should not be surprising that statutory boards in Singapore peculiarly answer to government ministers. One might question how this bureaucratic hierarchy within an authoritarian government affects the autonomy of religious bureaucrats to affect state decisions. By being closely linked to the state, MUIS is clearly susceptible to forms of state instrumentalisation.

Here, I will briefly pause to provide an overview of the functions of statutory boards in Singapore. Studies have shown how statutory boards became the platform in which state mechanisms were deployed to pursue repressive policies.³²² Several observers posit that the supposed autonomy of statutory boards benefits specific objectives set by the state because it gives flexibility and speed to pursue projects which would otherwise be hindered by a slow-moving government department.³²³ For example, the Post Office Savings Bank (POSB) – the history of which can be traced back to 1877 – was a Singapore government department designed to facilitate savings for the lower-income group. As a government department, it faced several restrictions such as operating only three days a week, resulting in dwindling deposits.³²⁴ To compete against conventional banks, it was transformed into a statutory board in 1971, first under the Ministry of Communications and later the Ministry of Finance. Free to enter into new business relations, the POSB managed to turn its fortunes around and was eventually acquired by another bank. The Housing and Development Board (HDB) is also another well-known statutory board in Singapore that began in 1960. In order to quickly build public housing for the low income, the HDB was given legal power to acquire land and evict previous owners.³²⁵ While statutory boards are efficient as they are not restricted by procedural delays typical of government departments,³²⁶ their proximity to the state means that they remain to be instruments of the government's political and ideological legitimacy. As such, HDB properties are subject to certain policies set by the state, such as the enforcement of racial quotas for public housing

³²² Beng Huat Chua, 'Not Depoliticized but Ideologically Successful: The Public Housing Programme in Singapore', *International Journal of Urban and Regional Research* 15, no. 1 (March 1991): 69, <https://doi.org/10.1111/j.1468-2427.1991.tb00681.x>; Abdullah, 'Religious Representation in Secular Singapore'.

³²³ Quah, *Public Administration Singapore-Style*; Mauzy and Milne, *Singapore Politics Under the People's Action Party*.

³²⁴ Nurhidayati Miharja and Tin Seng Lim, 'Post Office Savings Bank (POSB)', Infopedia, 11 September 2013, http://eresources.nlb.gov.sg/infopedia/articles/SIP_2014-01-07_112742.html.

³²⁵ Quah, *Public Administration Singapore-Style*, 66.

³²⁶ Bellows, 'Bureaucracy and Development in Singapore'.

and enacting policies that benefit only conventional family structures. Without going into the debates behind such policies, statutory boards – which benefit from state resources – are ultimately used as mechanisms for social control with repressive tendencies.³²⁷ Furthermore, even as statutory boards are formally removed from the political arena, Singaporeans constantly equate them with the state.³²⁸ Clearly the state benefits from this relationship especially if the statutory boards perform well, but it simultaneously retains political benefit by being able to “distance itself from public criticism and dissatisfactions” of its subsidiaries when the need arises.³²⁹

As a statutory board, MUIS possesses the flexibility to administer a wide range of religious affairs, at the same time operating as an “intermediary function between the state and the Muslim community.”³³⁰ The Fatwa Committee is situated within this religious statutory body and has a unique role to issue fatwas that affect not only the Muslim community, but also the Singapore government.

However being linked to the statutory board that administers Islamic affairs does not necessarily mean that fatwas are tied to the demands of the authoritarian state. This relationship is tempered through several measures, which I will explain in detail in the next section. For now, it suffices to say that although state fatwas’ relationship to the state can be defined through bureaucratic hierarchy, I take the position that a better indicator of this relationship is by examining the function of state fatwas, which is what this thesis sets out to do. Therefore despite the bureaucratic link of the Fatwa Committee to MUIS, and MUIS to the state, my research will show that state fatwas are rather distinct from either of them; they cannot be simply reduced as the religious instruction of the parent body MUIS, and certainly not a state-approved interpretation of Islam. This also means that my thesis opens the door to question the common assumption on statutory boards in Singapore. If the Fatwa Committee, a constituent of a statutory board, can exhibit resistance against state demands, surely statutory bodies themselves also contest state decisions? If so, how is this achieved? These are important questions that challenge the normative views of key institutions in

³²⁷ Chua, ‘Not Depoliticized but Ideologically Successful’, 69.

³²⁸ Chua, ‘Not Depoliticized but Ideologically Successful’.

³²⁹ Chua.

³³⁰ Michael Hill and Kwen Fee Lian, *The Politics of Nation Building and Citizenship in Singapore* (Routledge, 2013), 168.

Singapore and deserves scrutiny, however they lie outside the scope of the current research.

Although the legal-bureaucratic relationship of fatwas to the state can restrict their authority, it can also boost fatwas' reverence in the Muslim community (i.e. their traditional-societal authority). This is because the 'official' status of fatwas made them a focal point for religious instruction, and increases the confidence of petitioners,³³¹ that other fatwa bodies were pushed to the periphery. To illustrate, in 1949 a petitioner wrote in to a newspaper asking Jamiyah, a local religious body, for a fatwa on imported meat available in local supermarkets, whether it was slaughtered in a manner which was halal or permissible for Muslim consumption.³³² But with the establishment of a central fatwa body, local religious petitioners were directed to a single official source to refer to, so much so that its authority eclipses that of other bodies. One of the early fatwas issued by the Fatwa Committee decreed that a new Islamic lunar month is determined not by physical sighting of the new moon, rather through astronomical calculations. Compared to physical moon-sighting which has to take place on the evening of an expected new month, astronomical calculations can be determined long before the actual start of a new month. This would be useful for scheduling and planning purposes, such as for work and school holidays for the Islamic festival of Eid.³³³ In 1980, a Jamiyah seminar discussed alternative methods of moon-sighting to determine the Islamic lunar calendar. However it was criticised by the public for challenging the state fatwa on the matter.³³⁴ This demonstrated the rise of the state fatwa institution to supersede the authority of earlier, much older, religious institutions in the country.

As new technological, medical, and financial issues also led to more fatwa requests, the relevance of state fatwas also grew. The state fatwa body became an accessible point for religious queries and narrowed down religious authority to a single body of religious experts. Every time this body issues more of its fatwas and opinions, its

³³¹ Musa Furber, 'Elements of a Fatwa and Their Contribution to Confidence in Its Validity', *Tabah Analytic Brief*, no. 14 (2013): 3–4.

³³² AW Anjor, 'No "Fatua" For Cold Storage', *The Straits Times*, 24 August 1949.

³³³ According to Syed Isa Semait, the previous Mufti of Singapore, Singapore was the first country in Southeast Asia to rely on astronomical calculation. Syed Isa Semait, Personal Interview, interview by Afif Pasuni, Face-to-face, 21 August 2015.

³³⁴ AK Sulaiman, 'Putusan Seminar Jamiyah Dibantah Keras [Jamiyah Seminar Resolution Objected]', *Berita Harian*, 1 June 1980.

authority expands, and pushes the other institutions to the periphery. Over time, the state fatwa institution entrenched its position in society that it became the default reference point for religious issues.

Clearly the creation of an official fatwa body made significant changes to how fatwas function in state and society. Firstly, it officially diminished the role of other fatwa-givers and relegated the status of fatwas issued by other religious elites such as qadis, the ulama, and even authors. It must be noted that the existence of a state fatwa body never prevented these actors from issuing fatwas, though now they have to contend with an official state-appointed mufti, in addition to other fatwa-issuers.

Secondly, the establishment of an official state fatwa institution opened up new linkages with the state and granted direct access to the its bureaucratic workings. This made state fatwa issuers more cognizant of bureaucratic considerations, which moderate state fatwas even further. Although officially under state hierarchy, the legal intent of the state fatwa body originated from the constitutional guarantee of preserving the religious interest of the native Malay population. These new channels of authority are reciprocal and would thus test the capacity of state fatwas in operating between competing interests.

Thirdly, the enactment of AMLA marked the assimilation of soft law into hard law. Soft law – as mentioned in the previous chapter – implicitly promotes legal adherence to particular responsibilities and commitments. Hard law meanwhile refers to explicit legal expressions, which in this case dictates the recognition of fatwas in AMLA as well as their bureaucratic position. Fatwas as we know have no legal recognition in the colonial era. Adhering to fatwas was purely voluntary, which is why instances of ‘fatwa-shopping’ occurred as fatwa-seekers searched for religious advice that fit their demands. When AMLA was enacted, it opened the door for state fatwas to shape religious praxis as this recognition placed them above other religious institutions. This legal relevance also resulted in state fatwas being recognised by the court, and effectively cemented the hard law transformation of fatwas. But as Chapter 5 will show, this hard law recognition can also curb the authority of state fatwas, which then leads them to exercise different channels of authority in order to circumvent these legal restrictions.

AMLA is instrumental for Muslims in Singapore as it effectively centralised key Islamic institutions in the state. Although the enactment chained these institutions to act in accordance to state logic, the inclusion of religious elites in its inception also formalised religious interests, demands, and authority within AMLA. AMLA underwent several amendments over the years. Among them in 1998, when provisions were made for MUIS to create an investment subsidiary, as well as new regulations concerning halal food, the enforcement of *waqf* registration, and the administration of madrasahs. In addition, there were proposed changes to the Syariah Court, such as allowing civil courts to decide on child custody and matrimonial property, which the ulama feared would dilute the jurisdiction of the Syariah Court.³³⁵ Compared to the 1966 AMLA, the 1998 amendment was argued to have excluded independent ulama in its process, leading to popular discontent among them.³³⁶ It was thus no surprise that the proposed 1998 amendments were met with heated objections from various religious elites.³³⁷ Even the current Mufti of Singapore, who was then the assistant secretary of an Islamic civil society group, challenged these amendments.³³⁸ Yet these changes proceeded and established the hard-line statist trend against religious demands for the years to come.³³⁹ This is also evident in how state fatwas relate to the state. As I will demonstrate in my case studies later, state fatwas issued in the 1970s were amended over three decades later in order to accommodate state policies and legal judgements. While state fatwas can still manoeuvre through statist interests to assert their own authority, the trend demonstrates the authoritarian state's continuous policy to regulate religious praxis in Singapore and state fatwas' attempts to resist it.

³³⁵ 'Report Of The Select Committee On The Administration Of Muslim Law (Amendment) Bill (Bill No. 18/98)' (Parliament of Singapore, 1998).

³³⁶ Osman, 'The Religio-Political Activism of Ulama in Singapore'; Mutalib, 'Singapore Muslims', 70; Tham SC, *Islam and Secularism: Dynamics of Accommodation* (Singapore: NUS, 1993), 10.

³³⁷ Suzaina Kadir, 'Muslim Politics, the State, and Society', in *Renaissance Singapore?: Economy, Culture, and Politics*, ed. Kenneth Paul Tan (Singapore: NUS Press, 2007), 153.

³³⁸ 'Report Of The Select Committee On The Administration Of Muslim Law (Amendment) Bill (Bill No. 18/98)'.

³³⁹ The AMLA encounter between the state and Malay-Muslim activists in 1998 was followed by a policy that threatened the closure of madrasahs in 2000, the call for a new form of 'collective leadership' to temper state influence in the same year, and the hijab issue in 2002. See Rodan, 'Singapore "Exceptionalism"? Authoritarian Rule and State Transformation', 2008; Mutalib, 'Singapore Muslims'; Syed Muhd Khairudin Aljunied, 'Ethnic Resurgence, Minority Communities, and State Policies in a Network Society: The Dynamics of Malay Identity Formation in Postcolonial Singapore', *Identities* 17, no. 2 (March 2010): 304–26, <https://doi.org/10.1080/10702891003734920>; Steiner, 'Madrasah in Singapore: Tradition and Modernity in Religious Education'.

The development of AMLA illustrates the fluctuations of the relationship between the state and religious elites. Formalised legal-bureaucratic authority does not necessarily mean that the demands of religious elites are met, rather they are tempered by state interests. Similarly for the state, placing fatwas within the boundaries of the state bureaucracy does not simply imply the co-optation of religious interests, but it underlines the continuous negotiations that persist between these actors.

As such, AMLA was described not as an alternative legal recourse for Muslims, but a facilitator to manage and streamline the application of Islamic law in the country.³⁴⁰ In addition, the creation of the state fatwa body, the Fatwa Committee, was described as a “stabilising and unifying force”³⁴¹ as it takes away the need to source for overseas fatwas, and more importantly minimises the differences between religious opinions locally. These observations may be true but should be properly qualified. Because as we shall see in later chapters, these new forms of authority that defined the bureaucratic and legal position of state fatwas also complicate the negotiations between religious elites and the state. These complications arise not only between institutional actors, but also those among the local Muslim community who challenged the authority of state fatwas by publicly contesting their validity.

3.3 Formalising the Issuance of Fatwas

AMLA does not only mention the formation of a Fatwa Committee, but also detailed its members, protocol, and procedures. This illustrated the overwhelming bureaucratic logic that is tied to the issuance of state fatwas, reflective of the formalised authority accorded to them.

According to AMLA, the Mufti of Singapore is appointed by the President of Singapore “after consultation with the Majlis.”³⁴² Majlis here refers to the MUIS council. The council is made up of the MUIS president, the chief executive, the mufti, and at least fourteen other members. Among these fourteen Majlis members, a maximum of seven are appointed based on recommendation by the government minister responsible for Muslim affairs, while the rest are appointed based on

³⁴⁰ Ann Black, ‘Replicating “A Model of Mutual Respect”’: Could Singapore’s Legal Pluralism Work in Australia?’, *The Journal of Legal Pluralism and Unofficial Law* 44, no. 65 (January 2012): 76.

³⁴¹ Black, 87.

³⁴² ‘Administration of Muslim Law Act’ (1966), sec. 30 (1).

recommendations by various Muslim societies.³⁴³ The Majlis then recommends the mufti, “a fit and proper person”, to be appointed by the President of Singapore.³⁴⁴ Since the position was first created, there have been only three muftis in Singapore. The first was Mohamed Sanusi Mahmood who held the position from 1968 to 1972. He was succeeded by Syed Isa Mohamed Semait who was mufti from 1972 to 2010, after which Mohamed Fatris Bakaram took over.

AMLA also detailed the composition of the Fatwa Committee. According to Article 31 of AMLA, the Fatwa Committee consists of at least five individuals: the mufti and four other “fit and proper members”, two of whom are members of the Majlis, and two others who are not.³⁴⁵ Aside from the mufti, the members of the Fatwa Committee are appointed by the President of Singapore, again, on the advice of the Majlis.³⁴⁶ A quorum is formed only with the mufti and two other members of the Fatwa Committee, “one of whom shall not be a member of the Majlis”,³⁴⁷ which would balance between members and non-members of the Majlis.

The distinction between Majlis and non-Majlis members in the Fatwa Committee is designed to avoid a strong representation of the parent body MUIS in issuing fatwas. Furthermore, the ulama in the Fatwa Committee – whether linked to the Majlis or not – typically underwent very similar training locally, such as religious education in one of the only six madrasahs in Singapore, employed within circles consisting of other ulama, and upheld to similar societal expectations. Perhaps the clearest example of this is that all three muftis of Singapore were graduates of Al-Azhar University in Egypt. These shared interests and experiences provide yet another layer of distinction from the parent body MUIS and its bureaucratic logic, thus strengthening the informal traditional-societal authority of state fatwas.

In recent practice, the number of Fatwa Committee members was increased to thirteen in 1990,³⁴⁸ and then fifteen.³⁴⁹ According to the previous mufti, Syed Isa Semait, the

³⁴³ Administration of Muslim Law Act, sec. 7 (2).

³⁴⁴ Administration of Muslim Law Act, sec. 30 (1).

³⁴⁵ Administration of Muslim Law Act, sec. 31.

³⁴⁶ Administration of Muslim Law Act, sec. 31 (2).

³⁴⁷ Administration of Muslim Law Act, sec. 31 (6).

³⁴⁸ Suhaimi Mustar, ‘Fatwa Dan Fungsinya Sebagai Komunikasi Hukum Masyarakat Islam Singapura: Satu Penelitian [Fatwa and Its Function to Communicate Ruling to the Singapore Islamic Community: An Analysis]’, February 2005, 13–14.

³⁴⁹ Author’s interview with Syed Isa Semait, the former mufti of Singapore.

additional members allowed more inputs from a wider pool of experts not limited to religious sciences, but also finance, law, medicine, and other fields required to issue modern state fatwa.³⁵⁰

Traditionally the mufti fulfils the meaning of his title by issuing fatwas. Yet this is where the modern bureaucratic mufti departs from his historical predecessors as he cannot issue a fatwa on his own accord. Rather as dictated in AMLA, fatwa-making must be done collectively in the Fatwa Committee that the mufti chairs. In other words, a religious opinion issued by the committee is deemed a state fatwa only if it is agreed upon unanimously. If a consensus cannot be reached, the fatwa will be referred to the Majlis, “which shall in like manner issue its ruling in accordance with the opinion of the majority of its members”.³⁵¹ This decision, however, is not considered a fatwa.³⁵² In addition to state fatwas that can only be issued if they fulfil the conditions outlined in AMLA, other fatwa-like statements can be issued though they do not reach the level of fatwas. Among them are personal religious statements made by the mufti, and religious guidance called *irshād* issued by the Office of the Mufti (the secretariat of the Fatwa Committee). These religious instructions highlight how tightly the legal-bureaucratic regulations dictate fatwa-issuing in the modern Singapore state. At the same time, these fatwa alternatives also demonstrate how, even when fatwas cannot be issued, small pockets of autonomy allow fatwa issuers to command religious instruction on the society.

A state fatwa may be requested by anyone through various means, such as a letter addressed to the Secretary of the Majlis.³⁵³ The Secretary will then refer the query to the mufti as the chairman of the Fatwa Committee.³⁵⁴ The Fatwa Committee then considers whether to issue a fatwa, “unless in its opinion the question referred is frivolous or for other good reason ought not to be answered.”³⁵⁵

The Fatwa Committee meets monthly, although there were many instances that meetings had to be adjourned and resumed at the next soonest availability due to long

³⁵⁰ Ibid.

³⁵¹ Administration of Muslim Law Act, sec. 32 (5).

³⁵² Administration of Muslim Law Act, sec. 32 (5).

³⁵³ Administration of Muslim Law Act, sec. 32 (1).

³⁵⁴ Administration of Muslim Law Act, sec. 32 (2).

³⁵⁵ Administration of Muslim Law Act, sec. 32 (3).

deliberations.³⁵⁶ The Fatwa Committee also holds special meetings on short notice when there are urgent issues to be addressed. Court institutions, including the Syariah Court, may petition the Fatwa Committee for its expert opinion. Syariah Court would “reasonably” be expected to follow the given opinion.³⁵⁷ Civil courts meanwhile are not obliged to follow fatwas, and while they might “generally” adhere to them,³⁵⁸ my discussion in Chapter 6 will reveal the limited authority of state fatwas in court.

State fatwas are also expected to adhere to a particular school of thought.³⁵⁹ Article 33 of AMLA outlined that the Fatwa Committee should “ordinarily follow the tenets of the Shafi’ī school of law” or *madhhab*,³⁶⁰ which is common amongst Southeast Asian Muslims. However in case the Shafi’ī opinion is found to be “opposed to the public interest”, any of the other “accepted schools of Muslim law may be considered appropriate”.³⁶¹ This stipulation in itself is an interesting inclusion in AMLA. Not only does this formalise religious practices according to localised norms, but to some extent it gives state fatwas an additional layer of conformity to tradition by ensuring that they do not sway much from established traditional interpretation, since adhering to *madhhabs* also means following particular methodologies of deriving a religious ruling. This not only preserves traditional Islamic law-making from misinterpretation, but can also prevent state coercion and influence.³⁶²

The detailed manner in which AMLA stipulates the issuing of state fatwas illustrates the bureaucratic logic that the Fatwa Committee is expected to adhere to, which is reflective of the bureaucratic and legal authority accorded to it. At the same time, this highly-bureaucratic culture also grants state actors access to them and challenges the traditional informal authority of state fatwas. These contestations will be examined in detail in the following chapters.

³⁵⁶ Author’s review of MUIS’ Fatwa Committee minutes of meetings (1967-1978).

³⁵⁷ Abbas, ‘The Islamic Legal System In Singapore’, 170.

³⁵⁸ Abbas, 171.

³⁵⁹ For more details on this, see Bakaram, ‘Theories of Ifṭā’ in Islamic Law with Special Reference to the Shāfi’ī School of Law and Their Application in Contemporary Singapore’.

³⁶⁰ Administration of Muslim Law Act, sec. 33 (1).

³⁶¹ Administration of Muslim Law Act, sec. 33 (2).

³⁶² Sherman A Jackson, *Islamic Law and the State: The Constitutional Jurisprudence of Shihāb Al-Dīn Al-Qarāfi*, vol. 1 (Brill, 1996).

4 Conclusion

This chapter was guided by the question: how was the modern authority of state fatwas formed? To answer this, I have traced the development of Singapore's religious bureaucracy, which over time culminated with the establishment of the fatwa institution. From societal petitions that demanded a centralised religious authority to improve the management of religious affairs, to the consequent revisions of laws and ordinances that regulate religion, today's Islamic religious bureaucracy is the result of more than a century of political expediency, accommodations, and negotiations. I have shown how religious elites managed to find a common platform with the state. This platform marries religious interest with the politically pragmatic, secular, and authoritarian state. The legal-bureaucratic connection made possible through the legal statute AMLA and bureaucratized state-linked religious institutions combined both state and religious demands. This state-religious connection opened the door for state policies to be influenced by religious bureaucrats, and the decisions of religious bureaucrats to be affected by state interests. The amalgamation of this then affects how religious praxis is shaped in Singapore, i.e. Statist Islam.

Prior to the establishment of the modern state bureaucracy, fatwas in Singapore were issued by independent religious elites and institutions. There were however minimal links that chained them to state regulations. However upon independence, fatwas were recognised by the state and given the 'official' title. With this positional advantage, not only have state fatwas gained prominence over other non-official fatwas, but they are also tied to modern legal-bureaucratic restrictions. As a form of religious instruction sanctioned by the state, state fatwas cannot simply direct 'Islam' with full autonomy. Rather they are tied to state interests that embodies the 'Statist' prefix in Statist Islam.

Until today, these co-opted religious institutions have maintained a formal relationship with the state for more than half a century, a difficult feat especially given the contrasting set of interests each of them represents. The practice of religious elites maintaining close proximity with the state is far from new; similarities between today's religious bureaucrats and those before them remains. Across generations, religious elites and institutions had limited options in ensuring relevance in the state save through bureaucratisation. The mix of cooperation and co-optation, while not without problems, cemented the relevance of religious institutions and accorded them

new channels of influence. Amidst these developments, fatwas found new forms of legal and bureaucratic authority.

Religious entities affiliated to the state should therefore be observed beyond merely assumed subjugation. They are, first and foremost, activists in their own right, who decidedly operate in constrained avenues. Purposely passive in politics, they promote their religious ideals through the established intricacies of the secular state. As their time-tested methods indicate: proximity breeds trust, and trust diminishes reprisals. However their approaches are characteristically prolonged – even mundane – and because of that, often disregarded.

The next part will address one of the prolonged approaches in which fatwas affect state decisions. I shall examine how effective state fatwas are at negotiating religious demands and scrutinise claims of unilateral subjugation or tempered co-optation by the powerful state.

Chapter 4: Contesting Bureaucratic Authority: State Fatwas vs. State Policies

1 Introduction

The previous chapter outlined how the colonial development of religious bureaucracy in Singapore culminated in the enactment of the Administration of Muslim Law Act (AMLA) in 1966. This gave legal provision for the establishment of a centralised body for the administration of the Islamic faith namely through the Islamic Council of Singapore, commonly known by its acronym MUIS. Within MUIS, a fatwa-making body called the Fatwa Committee was also formed.

Tracing the establishment of the official fatwa body and the legal-bureaucratic powers vested in state fatwas enables us to understand their link to the modern state. In this and the following chapters, I will examine specific examples of how these legal-bureaucratic developments allowed state fatwas to affect state decisions in Singapore. This demonstrates how formalised legal-bureaucratic authority is actualised, and to what extent it remains relevant to advance religious demands against state wishes. At the same time, the case studies will also scrutinise informal forms of authority (i.e. traditional-societal authority) that state fatwas invoke when their legal-bureaucratic authority is challenged.

As I previously mentioned, this thesis contains three different sets of case studies on how state fatwas assert religious demands against: (1) state policies, (2) court judgements, and (3) recent developments in civil law. This chapter, being the first of the three, is driven by the question: how do state fatwas assert their authority vis-à-vis state policies? I answer this question by examining two examples. The first example looks at state policies that ignored fatwas, and the second one concerns policies that consulted fatwas. I argue that when formalised legal-bureaucratic authority is invoked, state fatwas can considerably affect state policies. However state fatwas also exhibit proclivity to rely on informal traditional-societal authority because it can shape Statist Islam beyond state restrictions.

These cases will show how state fatwas invoked both formalised legal-bureaucratic and informal traditional-societal forms of authority in preserving religious objectives. This supports the hypothesis that the legal-bureaucratic recognition of state fatwas allowed them to affect state decisions through policy feedback. Yet the autonomous

state largely dictates this aspect of the relationship, because for fatwas to impact state decisions they have to first be engaged by the state. Thus while fatwas represent religious demands and interests, their functions are still restricted within the parameters set by the state. In order to ensure the regulation of Muslim religious behaviour (and claim greater reverence among followers), state fatwas can also circumvent state decisions and policies by directly addressing the Muslim population.

This argument is structured in the following five parts. After this introduction, the next part (Section 2) provides a brief background on the rise of a centralised fatwa body immediately following Singapore's independence. This section will also discuss the human body as a site of state-religious contestation. Section 3 consists of two case studies which will look at how state fatwas' formalised legal-bureaucratic authority and informal traditional-societal authority were asserted. The first case study concerns Singapore's population control policies which were implemented from the 1960s onwards. I will briefly outline the various population policies put in place, and examine how state fatwas engaged with these policies. The second case study will demonstrate how formalised legal-bureaucratic authority allowed state fatwas to negotiate for Muslim exemption in a nationwide organ donation system. Section 4 then analyses how these distinct types of authority affect state fatwas and also state decisions, with the assessment that despite the relevance of formalised legal-bureaucratic authority, informal traditional-societal authority remains crucial in asserting the reverence of state fatwas on the Singapore Muslim community. The final part (Section 5) concludes by suggesting that while the bureaucratised role of state fatwas allowed it to contest state depiction of religious praxis, the traditional religious influence in society still remains vital for them to function in the modern state.

2 Background

2.1 The Influence of State Fatwas

Prior to the enactment of AMLA in 1966, there has never been a record of a mufti in Singapore despite petitions to have one appointed.³⁶³ In fact there were no mufti during the whole one and half century of colonial rule. During this time, religious questions were referred to 'unofficial muftis' in the form of state-appointed chief qadis, religious teachers, as well as a number of Islamic organisations. Among the notable Islamic

³⁶³ Yegar, *Islam and Islamic Institutions in British Malaya*, 106.

organisations then were the Muslim Missionary Society Singapore (Jamiyah), and the Singapore Islamic Scholars and Religious Teachers Association (Pergas). Jamiyah was established in 1932 by Abdul Aleem Siddiqui, an Islamic scholar of Indian origin.³⁶⁴ Pergas meanwhile was founded in 1957 by a group of Islamic teachers and scholars, among them Ahmad Zohri Mutamim and Daud Ali. These organisations still stand today and remain active in addressing religious issues in Singapore.³⁶⁵

When the Fatwa Committee was formed, it roped in individual ulama as well as those linked to various organisations such as Pergas. The appointment of these ulama in the Fatwa Committee was based on their religious knowledge, which is also an indicator of their reputation and standing among the Muslim community. When absorbed into the Fatwa Committee, the individual religious authority of these ulama facilitated the acceptance of a new fatwa-issuing body among Muslims. More importantly, it also lent religious credence and authority to official fatwas issued.

Having prominent ulama serving in the Fatwa Committee is central to ensure that religious authority is “transmuted” to the fatwa-issuing office.³⁶⁶ This is because the state fatwa body is not only a new institution, but also served as the highest religious instructor in the country. At its inception, there were five members in the Fatwa Committee who were responsible in issuing fatwas. All of these members were already established religious scholars, among them the founders of Pergas. Before the creation of the Fatwa Committee, fatwas were commonly obtained from the religious bodies mentioned, as well as from other individuals and institutions both locally and abroad. Fatwas were also requested in national newspapers. I previously mentioned an example in which a Muslim wrote in to a newspaper asking Jamiyah for a fatwa on imported meat available in local supermarkets, whether it was slaughtered in a manner which was *halal* or permissible for Muslim consumption.³⁶⁷ The role these ‘unofficial

³⁶⁴ He also pioneered the establishment of the IRO (Inter-Religious Organisation), which was formed in 1949 to promote better inter-religious cooperation.

³⁶⁵ Pergas especially played a key role in the AMLA encounter between the state and Malay-Muslim society in 1998. They were also prominent in the madrasah issue in 2000 when the state education policy was regarded to endanger madrasahs’ existence, and the hijab issue in 2002 which banned several Muslim students from attending school for wearing hijab. See: Rodan, ‘Singapore “Exceptionalism”?: Authoritarian Rule and State Transformation’, 2008; Mutalib, ‘Singapore Muslims’; Aljunied, ‘Ethnic Resurgence, Minority Communities, and State Policies in a Network Society: The Dynamics of Malay Identity Formation in Postcolonial Singapore’; Steiner, ‘Madrasah in Singapore: Tradition and Modernity in Religious Education’.

³⁶⁶ Mohamad, ‘The Ascendance of Bureaucratic Islam and the Secularization of the Sharia in Malaysia’, 519.

³⁶⁷ Anjor, ‘No “Fatua” For Cold Storage’.

muftis' played – whether they were individual religious teachers or institutions who issued fatwas – in providing religious instructions and setting religious norms were central to Muslim religious life. That is, until the establishment of the Fatwa Committee which shifted the authority of issuing religious instructions to a single body.

At their core, state fatwas are simply answers to religious questions. They therefore cover a wide spectrum of issues. In my fieldwork looking through the minutes of meetings of the Fatwa Committee, the questions asked by the Muslim community was truly diverse, and also reflect the social realities of everyday life at the time. This is especially true in the first few decades of the formation of the Fatwa Committee (i.e. beginning in 1968). The establishment of a local official fatwa body centralises fatwa-issuing for the Muslim community. Perhaps more importantly it makes getting authoritative religious answers more convenient, since the alternative to a *local* state fatwa is a *foreign* state fatwa; after all international correspondence before the internet age is a tedious task for many. Aside from typical questions concerning Islamic worship and rituals, these early state fatwas also addressed issues that reflected the social realities of the Muslim community at the time, such as mosque demolition and relocation because of land redevelopment, or the status of Islamic inheritance made prior to AMLA, or as this chapter will show, medical issues revolving around state policies. There were also questions by the police that asked for a certain type of mystical practice, called *susuk*,³⁶⁸ to be discouraged through state fatwa because its practitioners believed it made them invincible, and therefore encourages acts of violence. In addition to revealing the social realities of the era, these examples also demonstrated the extent of state fatwas' informal traditional-societal authority, since these fatwas have no legal bearing but instead rely on the voluntary adherence of petitioners.

Over time as state fatwas addressed more issues, reliance on them also increased. Being accessible and localised, the state fatwa body became a convenient avenue for religious queries, at the same time narrowing religious authority to a single body of religious experts. Since the presence of the Fatwa Committee does not restrict others from answering religious questions, state fatwas also serve to clarify competing

³⁶⁸ *Susuk* are charm needles which are inserted under the skin to act as talismans.

religious opinions. However being the official state-sanctioned fatwa-issuing body, state fatwas can supersede these other non-official fatwas. Every time this Fatwa Committee issues fatwas, it becomes more recognised and relevant. Over time the state fatwa body became the main reference point for religious queries.

The relationship between the state fatwa body and the state is meanwhile more complicated. The Singapore state, with its autonomous bureaucratic culture and expansive resources, is not necessarily in want of the state fatwa institution's blessings. As I have argued in the previous chapter, the creation of a fatwa institution that is linked to the religious bureaucracy, and by extension the state, serves to contain religious demands by channelling them to pre-approved institutions. This marks Singapore's brand of authoritarianism – which is hardly unique amongst Southeast Asian countries. But this authoritarianism is more concentrated and manageable for the state due to Singapore's tiny geographical footprint and small population. This constricts the boundaries of political contestation to very limited areas. Khong compellingly argues how political elites in Singapore turned even the civil service into a base of support by co-opting and politicising the body to serve the ruling elite, so much so that the line between party politics and civil service dissolved.³⁶⁹ This base of support extended to even include military elites, local trade unions, and the intelligentsia.³⁷⁰

While the political activism of local businesses, academics and religious leaders is a part of normal functioning democracies, in Singapore and similar milieus such contestations against the state are quickly quelled due to the prevalence of authoritarian practices. Even when religious elites challenge the state, the processes and outcomes are managed by the latter through specific laws that are invoked arbitrarily,³⁷¹ which suggests that state administration evolved to be above the judiciary in terms of its position in the pecking order. Even expressions of political contest become highly regulated through new laws for parliamentary elections, and in more recent times, pre-approved venues to hold demonstrations. The election of the President of Singapore for example, a largely ceremonial position, is a highly

³⁶⁹ Khong, 'Political Legitimacy through Managing Conformity', 118.

³⁷⁰ Khong, 'Political Legitimacy through Managing Conformity'.

³⁷¹ For examples of this, see Thio, 'Constitutional Soft Law and the Management of Religious Liberty and Order: The 2003 Declaration on Religious Harmony'; Neo, 'Secular Constitutionalism in Singapore: Between Equality and Hierarchy'.

politicised platform that severely hinders the inclusion of candidates who might challenge state dominance.³⁷²

Yet this does not mean that contestations against political authority do not emerge. As the government attempted to fend off challenges by sealing off possible pressure points, contestations became concentrated at various intersections where opposing interests converged. These convergences were ironically facilitated by the state through acts of co-optation that were meant to placate potential challengers. One such juncture is the religious bureaucracy that represents an “important source of social resistance to expansion of state power and capacity, and as the focal point...that resist[s] state domination.”³⁷³

State fatwas are placed at this unique point: they are issued by the Fatwa Committee that is recognised as the official religious instructor in the country, and hierarchically situated within a statutory board that administers Islamic affairs. This legal-bureaucratic recognition enables fatwas to assert a degree of influence over state decisions, as these religious instructions demonstrate how a form of policy feedback is exercised against state demands.

The state, in ensuring that its policies are well-received by the masses, realises that having the support of fatwas is in many ways a strong indicator of mainstream Muslim acceptance, especially since they assert considerable religious authority. I must note that the state is not compelled to base its decisions on fatwas, however it would nonetheless be an advantage if it gains fatwas’ blessings. After all, fatwas address not only religious issues but can also define Muslim relationship to the state, making them a widely relevant instrument with the potential to address political concerns. This illustrates the complicated relationship between the two entities, especially when state fatwas can challenge conformity to state decisions.

³⁷² In 2016, constitutional amendments were made that essentially limit the pool of eligible presidential candidates to high-ranking civil servants such as judges and ministers, and top executives of large companies with a paid-up capital of S\$500 million (~£270 million). More glaringly, the amendments also put in place a ‘rotational system’ for ethnic groups to be represented. The combination of these new eligibility criteria means that candidates will be almost exclusively made up of a band of ex-government ministers. Because these changes specify that an ethnic Malay candidate has to be voted, it effectively excluded a popular ethnic Chinese candidate who is critical against the ruling party.

³⁷³ Nasr, *Islamic Leviathan: Islam and the Making of State Power*, 16.

2.2 Regulating the Body

This chapter focuses on how the state and fatwas contradict each other in health policies. Health policies, in this case, concern the regulation of the human body through various measures. As a number of scholars note, the rise of the modern state is marked by regulatory interventions targeting the human body.³⁷⁴ All decisions that the state makes, whether in peace or war, concerns the adherence of its citizens, which is then realised only through physical action. Yet beyond the act of merely following through an instruction by way of the human body, the human body itself can be a site on which state regulation is applied.

Foucault refers to state power over other bodies as “biopower”, defined as “diverse techniques for achieving the subjugations of bodies and the control of populations”.³⁷⁵ Here, the human body is taken as a site in which power relations is exhibited.³⁷⁶ Among the ways state regulations can directly affect the human body is through health policies.³⁷⁷ For Turner, this constitutes the state’s disciplinary power and control over the body, as the “discourses and practices of public health and health promotion attempt to serve... functions” that affect the reproduction of populations and the regulation of bodies, which underline the interest of the state in regulating and restraining the human body.³⁷⁸

But what about religion’s control over the body? This aspect is perhaps less of a surprise compared to the state. After all, common Islamic rituals such as fasting and praying are first and foremost a physical act of worship. The more ostensible physical representation, such as the hijab for women and the beard for men are all manifestations of bodily regulation. At the very least parallels can be made between religious commands on self-control and state regulations, as both “representations of ‘the secular’ and ‘the religious’” in the modern state help shape people's identities, sensibilities, and experiences.³⁷⁹ Probed further, the body is not “a mere receptacle or

³⁷⁴ Michel Foucault, *The History of Sexuality*, vol. 1 (New York: Vintage Books, 1990); Bryan S. Turner, ‘The Government of the Body: Medical Regimens and the Rationalization of Diet’, *The British Journal of Sociology* 33, no. 2 (June 1982): 254, <https://doi.org/10.2307/589935>; Deborah Lupton, *The Imperative of Health: Public Health and the Regulated Body* (London ; Thousand Oaks, Calif: Sage Publications, 1995).

³⁷⁵ Foucault, *The History of Sexuality*, 1:140.

³⁷⁶ Lupton, *The Imperative of Health*, 6.

³⁷⁷ Lupton, *The Imperative of Health*; Turner, ‘The Government of the Body’.

³⁷⁸ See Lupton, *The Imperative of Health*, 6.

³⁷⁹ Talal Asad, *Formations of the Secular: Christianity, Islam, Modernity*, Cultural Memory in the Present (Stanford, Calif: Stanford University Press, 2003), 14.

‘inscriptive surface’” for the “work of [religious] representation-cum-discourse”, instead, the “body and bodily practices are central to the enactment of sacred space.”³⁸⁰ In order to ensure conformity, both religion and the state coerce followers and citizens alike in regulating the body to deprive it of what it desires. The differences in coercive measures reflect the limitation and extent of the state and religious instruction. Religion relies largely on metaphysical coercion, and the latter on financial as well as legal coercion (such as through taxation on sugary drinks and jail term for those endangering public health). State regulation is limited within the scope of explicitly enacted policies and laws, whereas religious regulation on the body can often extend beyond state reach. This transcendence past the sphere of the state is reflective of how fatwas function, which can convey religious norms and mandate various forms of self-regulation that the state cannot.

When these sets of competing state-religious demands collide, the result can be a mediation of each other’s positions. Religious decrees in the modern state – examined through state fatwas – can change, just as state policies can evolve. This is one of the subthemes that I explore in this chapter. Briefly put, the contradictory views that both the state and religion hold, which played out through the control and regulation of the body, can mediate and mould each other’s opinions.

The role of fatwas vis-à-vis the state (and to some extent the society) will be examined in the following two case studies. The first one will look at population control measures in Singapore, and how state fatwas resisted them. The second case study demonstrates how the fatwas responded to multiple state and societal petitions to include Muslims in a nationwide organ transplant programme.

3 State Fatwas vs. State Policies

3.1 Population Control Policy

Singapore’s population control policy evolved from being staunchly anti-natalist to the opposite which rewards parents with more cash the more children they have. From 1960 to 1987 – as the state sought to limit population growth – rigid and controversial policies were put in place to discourage births. Fatwas issued at the time opposed the

³⁸⁰ Julian Holloway, ‘Make-Believe: Spiritual Practice, Embodiment, and Sacred Space’, *Environment and Planning A* 35, no. 11 (2003): 35; cited in Banu Gökarkırsel, ‘Beyond the Officially Sacred: Religion, Secularism, and the Body in the Production of Subjectivity’, *Social & Cultural Geography* 10, no. 6 (September 2009): 657–74, <https://doi.org/10.1080/14649360903068993>.

state position and discouraged birth control. They even declared certain aspects of the policies to be prohibited in Islam. Yet the state policies persisted and met success, until 1987 when the state position changed to promote natalist population policies.

3.1.1 State Control of Population

Although various institutions have called for anti-natalist policies not long after the end of World War II, the Singapore state formally began its population control programmes only in 1960. The birth rate in post-war Singapore was at a high with the total fertility rate exceeding 6 children per woman. This was attributed to several reasons such as familial expectations and cultural preference for large families.³⁸¹

In 1949, the Singapore Family Planning Association was established and ran up to 27 clinics and various family planning programmes across Singapore.³⁸² The association grew with the help of state and non-state funding, and eventually was taken over by the state-run Singapore Family Planning and Population Board in 1965.³⁸³ The first state-run family planning campaign was launched in 1960 with the aim of discouraging large, unplanned families. In 1972 the National Family Planning Campaign was launched as the state took a more aggressive approach to family planning policies. Policy changes included measures so that families stop at only two children. Known as the “Stop at Two” campaign, it was the most notable family planning campaign in Singapore and spanned fifteen years, from 1972 to 1987.³⁸⁴ (See Figure 4) Among the measures to penalise couples with more than two children were through an increase in their accouchement fees, cancellation of maternity leaves, and relegation of school registration for children from large families in favour of those from smaller families. In addition, the campaign also provided controversial ‘motivation’ for couples to promote the use of contraceptives and permanent sterilisation. This involved awarding financial benefits for those who took these birth control measures. Abortion was also liberalised in order to realise the population control target.

³⁸¹ Swee-Hock Saw, ‘Muslim Fertility Transition: The Case of the Singapore Malays.’, *Asia-Pacific Population Journal* 4, no. 3 (1989): 36.

³⁸² ‘Situation Report’ (International Planned Parenthood Federation, February 1972), 41.

³⁸³ Melinda Gill et al., ‘Population Control in Singapore: A Case Study of Health Strategy and Implementation’, *Asian Studies Review* 20, no. 1 (July 1996): 121, <https://doi.org/10.1080/03147539608713098>.

³⁸⁴ ‘National Family Planning Campaign Is Launched’, Singapore History, accessed 19 March 2016, <http://eresources.nlb.gov.sg/history/events/eea3d96d-93aa-455a-ac8a-1564d1b6d215>.

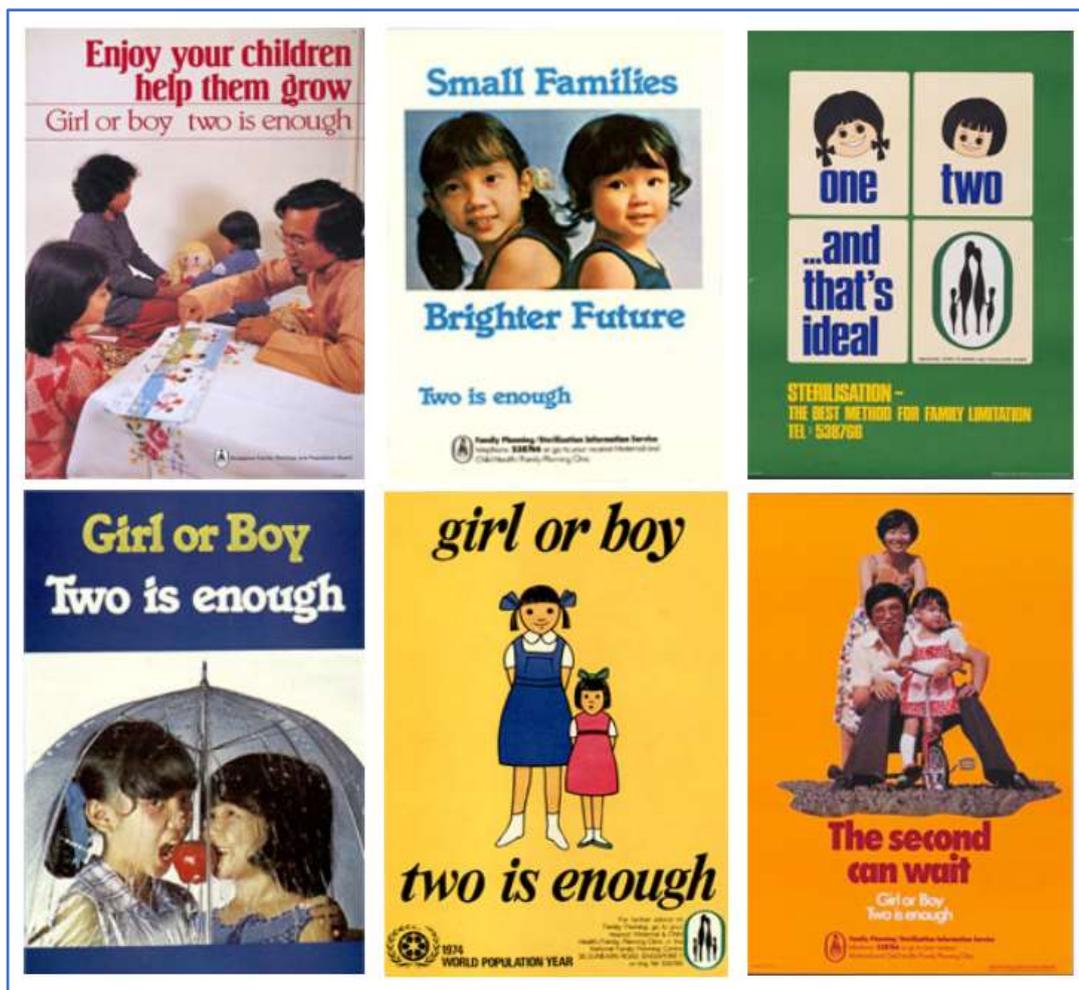


Figure 4 Family planning campaign posters produced between 1974-1983

Despite the initial resistance to these programmes, it went on to be a success. In the 1950s, the number of births among Malay-Muslims exceeded six children per female.³⁸⁵ This continued until the mid-1960s when the average number of birth per female dipped below six. By 1980 the overall total fertility rate in Singapore had declined to below replacement level to 1.8 children, with Malay-Muslim births hovering at just above two children per female.³⁸⁶

³⁸⁵ Saw, 'Muslim Fertility Transition', 36. Saw attributed this increase to the establishment of the Syariah Court in 1958, which helped to stabilise marriages, leading to a rise in fertility. However this increase began in 1954, and declined only in mid-1960s.

³⁸⁶ Population Division, DESA, 'World Population Ageing: 1950-2050' (United Nations), 409, accessed 19 March 2016, <http://www.un.org/esa/population/publications/worldageing19502050/pdf/180singa.pdf>; Eng Chuan Koh, 'Phases of Singapore's Demographic Development Post World War II', *Ethos*, January 2010, <https://www.ccollege.gov.sg/Knowledge/Ethos/Issue%207%20Jan%202010/Pages/Phases-of-Singapores-Demographic-Development-Post-World-War-II.aspx#notes>.

In the 1980s, Singapore's economic growth and ageing population meant that it needed to maintain a sizeable workforce, so the family planning programme was revised to incentivise larger families. At first, a slew of controversial measures was introduced to encourage what can only be described as eugenics, which incentivised large families of only the economically well-off,³⁸⁷ the vast majority of which are the ethnic Chinese population. The most glaring one was the Graduate Mother's Scheme in which school registration was prioritised for children whose mother has a recognised university degree or professional qualification. These 'highly educated' mothers also received generous tax relief for having more children.³⁸⁸ Meanwhile women which the state regarded as having 'low' educational qualification were discouraged from having children; they were instead encouraged to undergo sterilisation in return for a S\$10,000 cash grant.³⁸⁹ For these 'lower-educated' women, undergoing sterilisation would also ensure that their children get priority registration for school.³⁹⁰ Unsurprisingly, the contentious scheme was criticised by many and proved so unpopular that it was scrapped just a year later.³⁹¹

From 1987 onwards, the state advocated a slightly different pro-natalist policy known as the "Have Three or More (if you can afford it)" campaign. Some previous measures to disincentivise large families were amended. The relegation of school registration for families with more than two children was removed. Financial subsidies were given to those who placed their children in approved child care centres. Those with larger families also received some forms of assistance when moving to bigger properties. Women undergoing sterilisation would receive "compulsory counselling" in order to discourage them.³⁹² Yet several controversial measures remained, such as the sterilisation-for-cash programme for low-income families. Tax relief, although modified, was still pegged to the mother's educational qualification.³⁹³

³⁸⁷ Mui Teng Yap, 'Fertility and Population Policy: The Singapore Experience', *Journal of Population and Social Security (Population)* 1 (2003): 643–58.

³⁸⁸ Caroline Boey and Bertilla Pereira, 'Encouraging Well-Educated to Have Larger Families', *Singapore Monitor*, 24 January 1984; Ailian Peng, 'New Scheme of Priorities for Primary School Entry', *The Business Times*, 24 January 1984.

³⁸⁹ 'Cash and Cut to Save a Child', *The Straits Times*, 3 June 1984.

³⁹⁰ Peng, 'New Scheme of Priorities for Primary School Entry'.

³⁹¹ 'Cabinet Agrees to Scrap the Grad-Mum Plan', *The Straits Times*, 15 May 1984; 'Graduate Mothers Scheme Rescinded', *Singapore Monitor*, 14 May 1985.

³⁹² Swee-Hock Saw, *Population Policies and Programmes in Singapore*, Second edition (Singapore: ISEAS Yusof Ishak Institute, 2016), 162.

³⁹³ Saw, 164.

In the year 2000, a new programme to encourage more births known as the Baby Bonus Scheme was introduced. The programme, which is still in place today, offers S\$8,000 in cash for each of the first two newborns, and S\$10,000 each for child number three and four.³⁹⁴ Other incentives include a special bank account that the government will match dollar-for-dollar in contribution, and also a \$4,000 grant for the child's national medical savings account.³⁹⁵ Various tax reliefs were also introduced for parents, including working mothers. However even until today Singapore's population has yet to reach a birth rate that could replace itself, a leading factor behind a more liberal immigration policy.³⁹⁶

3.1.2 Instructing Muslim Families

The National Family Planning Campaign was launched in July 1972 with the aim of reducing the birth rate in Singapore. There were several publicity projects for the campaign, among them the telecast of a television forum for the Muslim community with panellists including the registrar of the Syariah Court.³⁹⁷ In the forum, the registrar stated that while family planning is allowed, permanent sterilisation is not permitted in the religion.

The Fatwa Committee discussed the matter of birth control in August 1972, a month after the National Family Planning Campaign was launched. A petitioner had requested a state fatwa on male vasectomy, but no definite answer was recorded.³⁹⁸ A definitive fatwa on birth control was reached in November 1974, which came as a response to a letter sent in by a member of the public. The letter, from a female nurse, reads:³⁹⁹

I have three children. Two girls and a boy. All three are now in school.

³⁹⁴ 'Baby Bonus Scheme', Ministry of Social and Family Development, accessed 14 July 2018, <https://www.msf.gov.sg/policies/Strong-and-Stable-Families/Supporting-Families/Pages/Baby-Bonus-Scheme.aspx>.

³⁹⁵ 'Baby Bonus Scheme'.

³⁹⁶ Yuen Sin, 'Parliament: Singapore's Total Population Likely to Be "significantly below" 6.9 Million by 2030', *The Straits Times*, 1 March 2018, <https://www.straitstimes.com/politics/parliament-no-major-changes-expected-to-immigration-policy-josephine-teo>.

³⁹⁷ Mas Merah, 'Jarang Beranak Dengan Makan Pil Tidak Merbahaya [Reduce Births by Eating Non-Harmful Pill]', *Berita Harian*, 25 July 1972; A key reason behind this ruling is the prohibition to permanently change an aspect of the human body. However temporary physical changes are generally allowed. For further discussion see Abdel R Omran, *Family Planning in the Legacy of Islam* (London; New York: Routledge, 1992), <http://public.ebib.com/choice/publicfullrecord.aspx?p=166215>.

³⁹⁸ 'Mesyuarat Jawatankuasa Fatwa [Fatwa Committee Meeting]' (Majlis Ugama Islam Singapura, 29 September 1972).

³⁹⁹ Translated by author from 'Mesyuarat Jawatankuasa Fatwa [Fatwa Committee Meeting]', Lampiran (Majlis Ugama Islam Singapura, 19 December 1974).

When I gave birth to them, I was not charged [for hospitalisation], and was allowed to use my leave entitlement i.e. 42 days of maternity leave and 34 days of annual leave.

After the birth of the third child, I took [contraceptive] pills for 6 years following the family planning policy.

Unfortunately I gained weight and felt unwell. The doctor advised me to stop taking the pills and “go for ligation”. After getting my family’s opinion, they advised me to have another baby and “then ligate”. I am now pregnant (five months). My husband asked an *ustaz* [or religious teacher] at the place where he is studying religion, and he said that ligation is prohibited for Muslims.

What worries me is that I have to pay penalties:

1. Full accouchement fees \$480/= (even though I am a nurse in a government hospital).
2. I will not get any maternity leave.
3. My fourth child will have no place in school.

However if I ligate after the birth of this child, these penalties will be waived. What is your opinion on this? I hope you will give me a written answer to the address above.

Thank you.

This letter was written in the context of the state’s anti-natalist policy at the time which introduced penalties for families with more than two children.⁴⁰⁰ Evident in the letter above, these included an increase in maternity fees and the cancellation of maternity leave. In response, the Fatwa Committee minutes of meeting simply recorded that

⁴⁰⁰ Theresa Wong and Brenda SA Yeoh, *Fertility and the Family: An Overview of pro-Natalist Population Policies in Singapore* (Asian MetaCentre for Population and Sustainable Development Analysis Singapore, 2003), 7, <http://hss2ih.wiki.hci.edu.sg/file/view/Population%20policies.pdf/225011118/Population%20policies.pdf>.

sterilisation is prohibited except in life-threatening circumstances.⁴⁰¹ In other words since the petitioner's medical and financial situations were not life-threatening, the state fatwa ruled that ligation is prohibited for her.

Not all fatwas were made public. Yet despite the population control policy going in full swing in the 1970s, it was still a surprise that the state fatwa on birth control methods was not publicised. However for those looking for an official fatwa on the policy, the lack of it was made up by comments in newspapers from individual members of the ulama, all of which articulated the same line: no permanent ligation nor sterilisation is permitted, while temporary contraceptives were allowed.

The state fatwa on family planning and sterilisation was eventually publicised in June 1984. In it, a familiar message was reiterated: family planning was allowed to benefit the children in order to “protect [them] from physical weaknesses and nurture them to be strong and healthy,” and that going for sterilisation to obtain monetary benefit is prohibited “especially for fear of being unable to provide food or poverty.”⁴⁰² The position of the ulama was clearly drawn from the onset; family planning and various forms of contraceptives were allowed but not irreversible ligation and sterilisation. Furthermore the tone was consistent: birth control can even be encouraged in certain circumstances such as to ensure the well-being of mothers and babies. This particular instruction as well as warning against making financial concerns the ultimate consideration, were emphasised in the media amidst the national birth control campaign.⁴⁰³

In October 1984, the Minister-in-Charge of Muslim Affairs petitioned the Fatwa Committee on a series of question on birth control matters. One of the questions was on ligation, to which the state fatwa allowed only if it can be reversed. Another question on couples obtaining monetary reward for ligation was answered as follows:

⁴⁰¹ ‘Mesyuarat Jawatankuasa Fatwa [Fatwa Committee Meeting]’ (Majlis Ugama Islam Singapura, 19 December 1974).

⁴⁰² Mafoot Simon, ‘Pemandulan-Ikatan: Mufti Beri Fatwa [Sterilisation: Mufti Issues Fatwa]’, *Berita Harian*, 6 June 1984.

⁴⁰³ ‘Apa Gunanya Lahirkan Anak Yg Masa DepanNya Tidak Terjamin? [What’s the Use of Giving Birth to a Child Whose Future Is Uncertain?]’, *Berita Harian*, 10 June 1973; Sa’adon Ismail, ‘Islam Larang Penganutnya Melakukan Pemandulan, Tetapi... [Islam Prohibits Sterilisation, But...]’, *Berita Harian*, 15 June 1974, 4, <http://eresources.nlb.gov.sg/newspapers/Digitised/Article/beritaharian19740615-1.2.21.6.aspx>.

“If they are doing it (ligation) for monetary reward then it is discouraged. This is because ligation is originally discouraged except if it is established to be reversible, with several conditions, among them it does not cause harm and not done out of fear of poverty. Thus the couple’s action [of undergoing ligation] with that intent [of monetary reward] is discouraged because Islam originally encourages having children.”⁴⁰⁴

It is noteworthy that a state fatwa was requested by a government minister just months after the exact same decree was issued. It is therefore not implausible to argue that the questions were made with the intent to have the fatwa reviewed by the Fatwa Committee. This is because the petition of state actors with direct bureaucratic access to the Fatwa Committee depicts significantly more urgency and seriousness compared to questions from the public. Furthermore, the petitioner was the Minister-in-Charge of Muslim Affairs, whom MUIS – the Fatwa Committee’s parent body – answers to. This placed additional pressure on the Fatwa Committee. Yet as we shall see in the next section, direct fatwa petitions from state actors are not uncommon, especially when state fatwas challenge the official state policy.

The Fatwa Committee also publishes fatwa booklets called *Kumpulan Fatwa* (Fatwa Collection) from time to time. These booklets contain a collection of various fatwas for the reference of the Muslim public. Among the fatwas mentioned was a question on family planning. It talked about the state policy known as the Small Families Improvement Scheme, which gave incentives for families with no more than two children. While describing it as a “good scheme to help poor families and prevent dropouts among poor students”, the five-page fatwa also cautioned that it is prohibited if it is done out of fear of poverty, and doing so “contradicts the Islamic creed.”⁴⁰⁵ The fatwa also highlighted the traditional religious recommendation of marrying with the intent to produce children, at the same time stressing that quality is as important as quantity. It then outlined the rules of using contraceptives; that it is allowed if it does not cause bodily harm, and if the reason is for health rather than financial concerns. The fatwa also specifically said:

⁴⁰⁴ ‘Mesyuarat Jawatankuasa Fatwa [Fatwa Committee Meeting]’, 19 December 1974.

⁴⁰⁵ ‘Skim Kemajuan Keluarga Kecil [Small Families Improvement Scheme]’, Draft of Fatwa Booklet (3) (Majlis Ugama Islam Singapura, 5 November 1993).

“... [The method of contraception] taken by participants that is stipulated [in the scheme] should be elaborated. If it permanently stops reproduction, that is prohibited, then this scheme cannot be accepted in Islamic law.”⁴⁰⁶

In the final paragraph, the fatwa ended with a glaring statement:

“In Islam, ‘assistance’ is defined as giving without conditions. When conditions are made, then it is no longer ‘assistance’.”⁴⁰⁷

Clearly it was a remark directed at the state policy of giving financial incentives to families who follow the family planning programme. Although the state has since changed its policy to encourage more births, some of these selective birth control policies remain.⁴⁰⁸

As a result of the population control policy, the overall birth rate in the country dropped. The anti-natalist population control programme, which lasted until 1987, was deemed a success. Some even claim that the policy to reduce birth rate was so successful that Muslims in Singapore stood out as the first Muslim population in the world to have achieved sustained replacement-level fertility.⁴⁰⁹ There were several social and economic factors behind this. Singaporeans by then were essentially urban dwellers with a high literacy rate and employed in non-agricultural activities. These developments resulted in a more open attitude towards state birth control programmes.⁴¹⁰

According to Saw, economic and social developments overwhelmed Islamic teachings concerning birth control, so much so that religious opinions – including fatwas – opposing it “no longer pose a serious obstacle” to reducing the birth rate of Muslim families.⁴¹¹ The state-led birth control policies were therefore, according to him, implemented “with the blessing of their religious leaders” as Malay-Muslims responded “positively to the subsidized family planning services.”⁴¹² Such claims

⁴⁰⁶ ‘Skim Kemajuan Keluarga Kecil [Small Families Improvement Scheme]’.

⁴⁰⁷ ‘Skim Kemajuan Keluarga Kecil [Small Families Improvement Scheme]’.

⁴⁰⁸ The Small Families Improvement Scheme was rebranded to Home Ownership Plus Education (HOPE) in 2004

⁴⁰⁹ Saw, ‘Muslim Fertility Transition’, 38; Gavin W. Jones, ‘Fertility Transitions among Malay Populations of Southeast Asia: Puzzles of Interpretation’, *Population and Development Review*, 1990, 516.

⁴¹⁰ Saw, ‘Muslim Fertility Transition’, 38–39.

⁴¹¹ Saw, 38–39.

⁴¹² Saw, 36.

should be qualified since not all aspects of the policy received the outright support of religious elites. Also, while the mainstream religious opinion – demonstrated through fatwas – discouraged small families, it did not prohibit it. In some cases, fatwas also encouraged small families (as shown in the booklet). Also, the position of the Fatwa Committee differed from state policy by permitting the use of temporary contraceptives only, while all forms of permanent birth control methods such as sterilisation were prohibited. Therefore to say that religious opinions did not affect the policy is inaccurate, especially since there are reports which stated that Muslims were “known to refuse sterilisation ‘point-blank’”.⁴¹³ This, to me, can be explained by the clear prohibition against permanent contraceptives, which was disseminated through the media and teachings of Islamic religious teachers in Singapore. Furthermore despite these policies leading to smaller families overall, Muslims families – until today – still retain the highest birth rate in the country.⁴¹⁴

This particular episode shows the legal-bureaucratic limitation of state fatwas. Despite their recognition through the legal enactment AMLA and bureaucratic link to the state, state fatwas were not consulted by the policymakers in the drawing up of the nationwide population policy programme. Therefore in this case, the formalised legal-bureaucratic authority of fatwas was irrelevant in affecting the state policy.

However this did not mean that fatwas issued were rendered ineffectual. This is because in addition to their legal-bureaucratic connection, state fatwas also possess another channel that can affect how religious praxis is shaped in a country, and that is by directly addressing the Muslim population. This facet of state fatwas’ authority is what I referred to earlier as traditional-societal authority, and represents their traditional role as the de facto religious instruction for the Muslim community, in spite of what the state decides. This form of authority is largely derived from the traditional function of fatwas in Muslim societies which serve as a guide for religious conduct. Fatwas are, at their core, a set of religious instructions based on traditional Islamic corpus, and predates the modern state. Therefore the traditional-societal authority of fatwas is largely distinct from the authority vested unto them by the modern state, and

⁴¹³ ‘Sterilisation: Low-Income Hubbies the Bugbear’, *The Straits Times*, 4 September 1975.

⁴¹⁴ Yap, ‘Fertility and Population Policy’, 647; ‘Population Trends 2015’ (Department of Statistics Singapore, 2015), 27, https://www.singstat.gov.sg/docs/default-source/default-document-library/publications/publications_and_papers/population_and_population_structure/population2015.pdf.

secures their relevance to followers seeking religious instruction. More importantly this distinctiveness allows state fatwas to challenge state decisions as it provides an organic channel of dissemination, which in this case instructed Muslim families to resist the state policy.

Where formalised legal-bureaucratic authority failed to shape state decisions, this episode showed two distinctive ways in which the informal traditional-societal authority of state fatwas was asserted: the various media platforms, and the consistent message of the fatwa not only among Fatwa Committee members but also other religious elites. The mainstream media was instrumental in broadcasting state fatwas for the Muslim community, as seen in the television programmes and newspaper coverage. In case this was insufficient, the self-published fatwa booklet provided an additional channel for state fatwas to be publicised, which even allowed for a more detailed and lengthy explanation of the religious instruction.

Yet the media are merely platforms. The same consistent message against discouraging births was shared very early on and consistently among the local ulama. This was evident in the 1972 television forum in which the registrar of the Syariah Court prohibited any forms of permanent birth control. Such a message was then reiterated and repeated by other religious teachers in the country, as the letter reproduced earlier affirmed. I argue that this consistent and unanimous tone is just as vital, if not more important than state fatwas' legal-bureaucratic authority. This is because it allows fatwas to be more organically and effectively instructed to the masses. While the media represent a useful way to publicise fatwas, informal authority relies on individualised links and organic relationships between the petitioner and the instructor. As the letter above stated, when the husband of the letter-writer asked his religious teacher whether ligation is allowed, he was given the same answer as what the state fatwa mentioned. This consistency lent more credence to the fatwa itself and bolstered the traditional-societal authority of state fatwas among Muslims in the country.

3.2 Organ Donation Policy

This case study on the development and evolution of the organ donation policy in Singapore is divided into two sections. The first one discusses the early development of organ donation fatwas, which reveals their traditional-societal authority on the

Muslim community. The second part discusses the legal-bureaucratic aspect as the Fatwa Committee was petitioned by the state in drawing up a nationwide organ donation policy known as the Human Organ Transplant Act (HOTA).

3.2.1 Prohibiting Organ Donation

The debate on the permissibility of organ donation for Muslims began in June 1973, sparked by the launch of the National Kidney Foundation. The foundation was established to assist kidney patients and promote renal research. This led to questions among Muslims on the religious permissibility of kidney transplant.⁴¹⁵ The request for a fatwa came not only from the public, but also journalists from the newspaper *Berita Harian* who pressed the Fatwa Committee to quickly come to a decision on the matter.⁴¹⁶ *Berita Harian* is the main Malay-language newspaper in Singapore and as such caters not only to Malay issues, but also Islamic issues because the vast majority of Muslims in Singapore are of the Malay ethnicity. In the same month, the newspaper published articles featuring Muslims who had already pledged their organs for transplant,⁴¹⁷ and those who were waiting for a state fatwa.⁴¹⁸ Readers even requested a public seminar to discuss the issue,⁴¹⁹ all of which signalled strong public interest on the matter.

Before the Fatwa Committee was supposed to deliberate on the issue, the newspaper published a letter from a prominent religious scholar who was also a member of the Fatwa Committee. The letter said that organ donation is prohibited,⁴²⁰ and served as a precursor of what was to come. Days later, the Fatwa Committee decreed that organ donation is not permitted for Muslims.⁴²¹ The fatwa was publicised in the newspaper

⁴¹⁵ 'Kempen Buah Pinggang: Sambutannya Menggalakkan [Kidney Campaign: Encouraging Response]', *Berita Harian*, 7 June 1973; 'Derma Organ: Sidang Fatwa MUIS Hari Ini [Organ Donation: MUIS Fatwa Convenes Today]', *Berita Harian*, 31 July 1973, <http://eresources.nlb.gov.sg/newspapers/Digitised/Article/beritaharian19730731-1.2.2.aspx>.

⁴¹⁶ 'Niat Dan Maksud Di Sebalik Perbuatan Yang Penting [What's Important Is the Intent and Objective of an Action]', *Berita Harian*, 22 June 1973; Suismaju, 'FATWA MUIS Tentang Derma Organ Di Pinta [MUIS FATWA on Organ Donation Requested]', *Berita Harian*, 27 July 1973.

⁴¹⁷ Guntor Sadali, 'Seorang Lagi Islam Rela Derma Organnya [Another Muslim Willing to Donate Organ]', *Berita Harian*, 20 July 1973.

⁴¹⁸ Embik Ali, 'Derma Organ Badan: Minta Nasihat Dulu [Organ Donation: Ask for Advice First]', *Berita Harian*, 25 July 1973.

⁴¹⁹ Bidin Abdul Rahman, 'MUIS Disyor Adakan Seminar Derma Organ [MUIS Asked to Organise Organ Donation Seminar]', *Berita Harian*, 30 July 1973.

⁴²⁰ Ahmad Zohri Mutamim, 'Derma Organ Dlm Islam Hukumannya Haram - Zohri [Organ Donation Is Prohibited in Islam - Zohri]', *Berita Harian*, 28 July 1973.

⁴²¹ 'Derma Organ Haram: Fatwa Mufti [Organ Donation Is Prohibited: Mufti's Fatwa]', *Berita Harian*, 2 August 1973.

and afterwards a slew of rejoinders was published contesting the fatwa and requesting the decision to be reviewed.⁴²² Among those who criticised the fatwa was Syed Hussein Alatas, a lecturer at the National University of Singapore and an important public intellectual.⁴²³ On 10 August 1973, his point-by-point rebuttals against the state fatwa was published in *Berita Harian*. In it he cited other fatwas around the world that permitted organ donation, including in neighbouring country Malaysia.⁴²⁴

That was only the beginning. A week later, Alatas published a second rejoinder, this time expounding on related fatwas including the Mufti of Singapore's alma mater the Al-Azhar University in Egypt that permitted blood transfusion for "public benefit".⁴²⁵ He argued that if blood transfusion is permitted, then so should organ donation. Alatas also criticised the local fatwa body for what he saw as their literal interpretation of religious texts and lack of independent reasoning for prohibiting organ transplant.

The Fatwa Committee responded against these claims and explained their position in more detail, among them was that they regarded organ transplant as experimental in nature, and therefore deemed unsafe.⁴²⁶ The Fatwa Committee issued a second response the following week, essentially justifying the religious prohibition against removing organs after death for whatever purpose.⁴²⁷ The newspaper then allowed a final response from Alatas in the subsequent instalment.⁴²⁸ To summarise the argument, the side proposing organ transplant viewed it as a benevolent deed that embodies religious principles and should therefore be encouraged, while the opposing

⁴²² 'Masaalah Derma Organ Perlu Dibawa Ke Mukhtar - Rahman [Organ Donation Issue Should Be Discussed in Conference - Rahman]', *Berita Harian*, 9 August 1973.

⁴²³ Syed Hussein Alatas was a social scientist and politician. He held several positions in various universities in Singapore and Malaysia and also formed political parties. Alatas wrote several books, the most famous being *The Myth of the Lazy Native* (Frank Cass & Co.: London, 1977) that – as the title suggests – criticises the Western assumption of the lack of industriousness among the native Southeast Asian population.

⁴²⁴ Syed Hussein Alatas, 'Peranan FATWA Dalam Masyarakat Islam [The Role of FATWA in the Muslim Community]', *Berita Harian*, 10 August 1973.

⁴²⁵ Syed Hussein Alatas, 'Mustahakkah Semua Alat2 Badan Mesti Lengkap Jika Masuk Ke Kubur? [Must All Organs Be Complete for Burial?]', *Berita Harian*, 17 August 1973.

⁴²⁶ Majlis Ugama Islam Singapura, 'Pindah Organ: MUIS Jawab Tulisan Syed Hussein [Organ Transplant: MUIS Answers Syed Hussein's Writing]', *Berita Harian*, 24 August 1973, <http://eresources.nlb.gov.sg/newspapers/Digitised/Article/beritaharian19730824-1.2.23.1.aspx>.

⁴²⁷ Majlis Ugama Islam Singapura, 'Pindah Organ: Jawapan MUIS Terhadap Tulisan Syed Hussein [Organ Transplant: MUIS' Answer to Syed Hussein's Writing]', *Berita Harian*, 31 August 1973.

⁴²⁸ Syed Hussein Alatas, 'Syed Hussein Alatas Jawab Hujjah2 MUIS [Syed Hussein Alatas Answers MUIS' Argument]', *Berita Harian*, 7 September 1973, 2.

party – i.e. the Fatwa Committee – cautioned that organ removal offends the divine sanctity of the human body and should therefore be prohibited.

Alatas later compiled the debate into a book, which he said was to highlight the “type of thinking that hinders Muslims from success.”⁴²⁹ The book title, *Biarkan Buta* (Let Him Remain Blind), serves as a paranomasia; a reference to blind patients suffering due to the state fatwa prohibiting organ transplant, as well as the Fatwa Committee’s short-sightedness on the matter. Alatas criticised the Fatwa Committee for lacking “the understanding of today’s sciences, disrespecting intellectual faculty” and practising “narrow interpretation” of the Islamic scripture.⁴³⁰ Nonetheless the debate was praised by many,⁴³¹ including Muslim organisations, which said it resulted in a deeper understanding of the issue.⁴³²

The newspaper debate also captured – more than once – the candid nature of the discussion, bordering on mockery and cynicism. One reason why the debate became heated was because it touched the raw nerve of the Fatwa Committee who exclusively addresses religious issues. As fatwas are the most prominent form of religious instruction in the country, having their religious credibility publicly questioned would be taken as a direct challenge on their traditional-societal authority. As such, the replies from the Fatwa Committee were also just as curt, and perhaps even made them more adamant to hold on to their position for over a decade.

More than a decade later in 1985 and prior to the first HOTA enactment, the organ donation fatwa was amended to allow kidney transplant for Muslims.⁴³³ This came with stringent conditions such as the recipient being in a life-threatening condition, and contingent on the permission of the donor and two male guardians.⁴³⁴ The response

⁴²⁹ Guntor Sadali, ‘Derma Mata: Perbahasan Antara MUIS Dgn Dr. Syed Hussein Alatas Dlm Bentuk Buku [Eye Transplant: Debate between MUIS and Dr. Syed Hussein Alatas in a Book]’, *Berita Harian*, 11 August 1974.

⁴³⁰ Sadali.

⁴³¹ MA Yunus, ‘Renungan Jumaat: Lagi Pembaca Minta Dipulihkan [Friday Reflection: More Readers Want It Back]’, *Berita Harian*, 21 January 1974; Yunus Talib, ‘Pandangan2 MUIS-Profesor Tentang Organ Disambut Baik [MUIS-Professor Debate on Organ Donation Well-Received]’, *Berita Harian*, 31 August 1973, 2.

⁴³² ‘Pindah Organ Begitu Hebat Di Kalangan Orang2 Islam [Organ Donation Is Important for Muslims]’, *Berita Harian*, 28 December 1973.

⁴³³ ‘Mesyuarat Jawatankuasa Fatwa [Fatwa Committee Meeting]’ (Majlis Ugama Islam Singapura, 12 March 1985).

⁴³⁴ Ahmad Mohd Don and Nuryati Duriat, ‘Boleh Derma Buah Pinggang [Kidney Donation Allowed]’, *Berita Harian*, 3 May 1986; Ahmad Mohd Don, ‘Derma Buah Pinggang: Fatwa Penyuluh Jalan [Kidney Donation: Fatwa Paves the Way]’, *Berita Harian*, 11 May 1986.

was met with positive reception from the Muslim public, although Alatas refused to give detailed comment.⁴³⁵

This episode showed the importance of informal traditional-societal authority, a key facet of how state fatwas operate and remain relevant to Muslims. This informal traditional-societal authority is the most essential element of state fatwas and represents their core function in the Muslim community, i.e. as the de facto religious instruction. As such when the informal authority of state fatwas was criticised and questioned, the Fatwa Committee fervently protected this domain since it signalled a strong challenge against the most essential form of fatwas' authority in the society.

Yet this is only one aspect of state fatwas' authority. If informal traditional-societal authority marks state fatwas' relevance with members of the Muslim community, then there is also the formalised legal-bureaucratic authority that positions religious demands in the domain of bureaucratic actors – i.e. the state – which I will discuss in the next section.

3.2.2 The Human Organ Transplant Act (HOTA)

Organ donation in Singapore was done on a largely voluntary basis until HOTA was enacted in 1987. HOTA is a public organ donation system which assumes automatic consent from Singapore citizens. All healthy adults are included under the law, and unless they opted out, upon demise their organs (covering kidneys, livers, hearts and corneas) will be donated to other patients. There were several state fatwas issued on Muslim organ donation which evolved over time. Initial fatwas had prohibited Muslims from any form of organ donation. By 1987 when the national organ donation system HOTA was introduced, the fatwa had changed to allow organ donation for Muslims. However it required explicit consent from the donor and the donor's guardians, and as a result Muslims were excluded from HOTA because it is based on presumed consent. Over time, however, the state fatwa gradually softened and allowed presumed consent (instead of explicit consent) for Muslim organ donors. This paved the way for the inclusion of Muslims in HOTA in 2008.

The evolution of the organ donation fatwa took over three decades. The first state fatwa on organ donation was recorded in July 1973 when a petitioner asked about the

⁴³⁵ Jabbar Hanief, 'Fatwa Memberi Harapan [Fatwa Gives Hope]', *Berita Harian*, 4 May 1986.

permissibility of organ transplant after death.⁴³⁶ The fatwa answered that it is prohibited for several reasons, among them: they viewed the human body as temporal custodianship that should not be tampered with. Furthermore, the fatwa reasoned that since organ donation is not religiously sanctioned when a person is alive, the prohibition remains upon death as well.

The next mention of organ donation in a fatwa was more than a decade later in January/February 1985. The state – through the Ministry of Community Development – had requested a fatwa for the proposed organ donation programme later known as HOTA. The state was drawing up a policy that would automatically assume all Singapore citizens as voluntary organ donors unless they opted out. There were deliberations on the extent of severity that might allow for exceptions, but the fatwa discussions concluded that organ donation, by default, is prohibited.

Throughout the same year, the Fatwa Committee continued to discuss the permissibility of organ donation. These discussions at times included other religious teachers in Singapore. Gradually, the position of the Fatwa Committee softened; by the end of the year, a fatwa was issued allowing organ donation in life-threatening cases, albeit with several conditions.⁴³⁷ If the donation is done after death, then it is contingent on the permission of the donor and two male guardians.⁴³⁸ As the mufti at the time summarised:

“...It is permissible to take the organ from a dead person to save the life of another who is in need of this organ, provided that the donor is an adult who permitted this during his lifetime and that the deceased’s next-of-kin also gave his permission.”⁴³⁹

Muslim parliamentarians also met with the Fatwa Committee and brought up comparative views on organ donation from other parts of the world, some of which

⁴³⁶ ‘Mesyuarat Jawatankuasa Fatwa [Fatwa Committee Meeting]’ (Majlis Ugama Islam Singapura, 31 July 1973).

⁴³⁷ The conditions that allowed for this circumvention is emphasised in it being a *darurah*, here defined as life-threatening emergency. Other stipulations were also outlined: that donors cannot be coerced, and the operation is expected to have high probability of success. ‘Mesyuarat Jawatankuasa Fatwa [Fatwa Committee Meeting]’, Lampiran 1 (Majlis Ugama Islam Singapura, 12 March 1985), 8.

⁴³⁸ The correct terminology in this context is *wali*, similar to the Malay term *waris* that the fatwa committee used in their discussions. It explicitly refers to male biological next-of-kin, though for the sake of brevity I used male guardians instead.

⁴³⁹ ‘Fatwa Pemandahan/Pendermaan Organ [Organ Transplant/Donation Fatwa]’ (Majlis Ugama Islam Singapura, December 1985).

did not require guardian consent.⁴⁴⁰ Given that the position of the Fatwa Committee was already known, and the draft of the organ donation policy was coming to a close, it is not implausible to assume that the meeting was held to relax the stringent conditions stated in the fatwa, specifically the condition that requires the consent of two male guardians. In a meeting, the mufti stated, aware of the mounting pressure to comply:

“As the middle way, the relevant [organ donation] law should include exception for Muslims; only in the event of a *darurah* (life-threatening emergency), that a [Muslim] person can donate and accept organs. Before the organ is taken from the deceased Muslim, the consent of his/her relatives should be obtained, and in the case of those who do not have relatives, then MUIS is their guardian.”⁴⁴¹

What the Fatwa Committee proposed was an ‘opt in’ policy, whereby Muslims were exempted except if they explicitly consented to have their organs donated after death. As the state is implementing a system in which those refusing to donate must manually ‘opt out’, the state fatwa was essentially pushing for Muslims to be excused from HOTA. This proposal was accepted. In July 1987, HOTA was passed in Parliament. The act allowed the automatic removal of organ after death by the state. Part II of the Act reads:

(2) No authority shall be given under subsection (1) for the removal of the organ from the body of any deceased person —

...(g) who is a Muslim.⁴⁴²

While the state fatwa permitted Muslims to donate their organs, stringent conditions were set that contradict those laid by policymakers. These conditions blocked Muslims from being included in the automatic organ donation system.

⁴⁴⁰ ‘Mesyuarat Jawatankuasa Fatwa [Fatwa Committee Meeting]’ (Majlis Ugama Islam Singapura, 8 May 1985), 2.

⁴⁴¹ ‘Mesyuarat Jawatankuasa Fatwa [Fatwa Committee Meeting]’, 5.

⁴⁴² ‘Human Organ Transplant Act’ (1987), <http://statutes.agc.gov.sg/aol/search/display/view.w3p;ident=1ccc1918-3070-41d1-b33e-81ed30cc55e7;page=0;query=CompId%3A1ccc1918-3070-41d1-b33e-81ed30cc55e7%20ValidTime%3A16%2F07%2F1987-00%3A00%20TransactionTime%3A07%2F08%2F2015;rec=0#legis>.

As the years progressed, it became apparent that Muslims were under-represented among organ donors, and the number of Muslim organ donation pledges remained low. Seven years after HOTA was introduced, only 572 of a quarter million Muslims in Singapore had pledged to give their organs through HOTA. And even then, only one actual organ donation was made.⁴⁴³

By 1997, the number of Muslim kidney pledgers rose to 6,600, still a very small number.⁴⁴⁴ This dismal response to organ donation was further exacerbated by the stipulation that Muslim donors required the endorsement of two male guardians. This created a unique problem; by the year 2000, more than 12,000 Muslim pledge cards were rejected because there were no proper endorsement from qualified guardians. This meant that potential Muslim donors cannot donate their organs despite their desire to do so.⁴⁴⁵

HOTA – which initially only covered kidney transplant – was amended in 1998 and 2004 to cover more human organs. While it was previously limited to the kidney, the changes were made to include the liver, heart, and cornea, as well as donors who died from non-accidental causes. In public consultations prior to these amendments, there were calls to automatically include Muslims in the Act.⁴⁴⁶ The Fatwa Committee was petitioned by various groups to amend its fatwa so that Muslims can be included in HOTA.

A key driver behind the petitions to have the organ donation fatwa reviewed was not the emphasis on organ donors, but the implication for Muslim renal patients. This was because a person cannot be listed as an organ recipient from the national pool of organ donors, except if he or she is an organ pledger in HOTA. Therefore, the blanket exclusion of Muslims from HOTA also excluded all Muslims from being included in the list of eligible recipients, which is a problem since the number of Muslim renal patients was on the rise.

⁴⁴³ ‘Major Drive to Get Muslims to Pledge Kidneys next Month’, *The Straits Times*, 4 June 1992.

⁴⁴⁴ M Nirmala, ‘Organ Transplant Act “Should Cover Muslims”’, *The Straits Times*, 25 June 1997.

⁴⁴⁵ Bakaram, ‘Theories of Iftā’ in Islamic Law with Special Reference to the Shāfi‘ī School of Law and Their Application in Contemporary Singapore’, 220.

⁴⁴⁶ ‘Peserta Forum Syor Muslim Disertakan Dalam Hota [Forum Participant Recommends Muslims to Be Included in Hota]’, *Berita Harian*, 18 February 2003; ‘Masyarakat Islam Mahu Sertai Akta Pemindehan Organ [Muslims Want to Join Organ Transplant Act]’, *Berita Harian*, 31 January 2003.

Among those calling for a fatwa amendment was the Muslim Kidney Action Association (MKAC), a volunteer organisation that provides for the welfare of kidney patients. Together with the Ministry of Health, the group provided several reports over the years to justify Muslim inclusion in the organ donation system. The reports mainly addressed the health and social impact of the lack of Muslim donors. It also showed the rising number of Muslim renal patients and the difficulties they face because of their exclusion from HOTA.

These reports also steered clear of any religious argument since this could be misconstrued as encroaching on the expertise of the Fatwa Committee, which might evoke a defensive response as seen in the earlier newspaper debate with Alatas. Amidst these developments, the Fatwa Committee amended the fatwa to expand the definition of guardian whose consent was required prior to organ donation. Instead of male next-of-kin, consent was now accepted from any two male witnesses. The fatwa amendment also permitted the inclusion of other parts of the body for transplant.⁴⁴⁷ Yet these changes did not bring about significant response as the procedure for Muslims organ donation was still done through manual pledging.⁴⁴⁸

Further petitions took place, led by the MKAC, and in 2007 a new state fatwa was eventually issued. The fatwa not only eliminated the need for witnesses or next-of-kin, but also allowed automatic presumed consent from Muslim donors. To justify presumed consent, the fatwa stated that since the consent is revocable, it is therefore analogous to normal consent.⁴⁴⁹ This effectively meant that Muslims could be included in HOTA. The fatwa also cited two key reasons for this change: the proportionately higher number of Muslims with renal failure, and the small number of actual organ donors among Muslims.⁴⁵⁰ According to the fatwa, this underlined the dire need of organ donation in the country, which led to the amendment. Following this change, Muslims were officially included in HOTA in 2008.

This episode demonstrates how state fatwas can affect state policies. Despite the widely authoritarian and secular characteristics of the state, the decrees made by the

⁴⁴⁷ Bakaram, 'Theories of Iftā' in Islamic Law with Special Reference to the Shāfi'ī School of Law and Their Application in Contemporary Singapore', 227.

⁴⁴⁸ Bakaram, 217.

⁴⁴⁹ Office of the Mufti, 'Fatwa on Organ Donation' (Majlis Ugama Islam Singapura, 2007), <http://www.officeofthemufti.sg/Fatwa/hota%282007%29%28eng%29.html>.

⁴⁵⁰ Office of the Mufti.

Fatwa Committee disrupted what was supposed to be a straightforward implementation of a health policy. State fatwas were able to affect the state policy due to their legal-bureaucratic authority, which places significant relevance on them for issues concerning Muslim religious affairs. Their relevance to the state is enshrined through the bureaucratisation of religious institutions that situated them within the constituency of state bureaucracy. This made the state recognise their formalised authority, and even carved out policy exemptions so as not to contradict these religious decrees.

Yet formalised authority in an authoritarian state is a peculiar thing. To be clear, the state is not obliged to consult or petition state fatwas in its policies. This underlines that even the decisions of a highly bureaucratic authoritarian state can be inconsistent, and shows the convoluted, if not messy nature of state decision-making process. The previous example of population control policy is a testament to this, as the state implemented rigid policies to suppress the number of births without consulting fatwas. However for the organ donation policy, the state chose to do so, and once this bureaucratic authority is invoked the policymakers cannot ignore the feedback of its religious constituent. What is clear is that amidst the muddled bureaucratic conditions that intertwine multiple sets of demands and interests, the legal-bureaucratic authority of state fatwas allowed them to set a foothold in the state decision-making process. This enabled the fatwas to disrupt state policies to the extent that policy exemptions had to be created for Muslims.

4 Between Traditional Reverence and Modern Relevance

4.1 Preserving Traditional-Societal Authority

For state fatwas, informal traditional-societal authority is just as important, if not more important, than formalised legal-bureaucratic authority. This is because unlike the latter, informal traditional-societal authority does not rely on bureaucratic conditions nor legal recognition (although it may benefit from it). Traditional-societal authority only concerns the direct relationship between fatwas and the people they address: the Muslim community. The difference between formal legal-bureaucratic and informal traditional-societal authority also means that state fatwa issuers have the option to choose the most effective channel of authority to assert the fatwas. This also indicates that state fatwas can retain a distinct relationship with their intended audience, independent from state influence.

The cases presented above show how, when not included in the policymaking process, state fatwas relied on informal authority to assert religious authority. In addressing the population control policy, state fatwas largely agreed with the overall goals of the policy, i.e. reducing poverty and promoting economic progress. However they strongly disagreed on several of the methods involved, which included permanent sterilisation and selective assistance schemes. Yet as fatwas were not consulted in drawing up the policy, they were officially powerless to shape it. As such, the state was able to implement its population control policies with minimal disruption from its religious constituent.

Despite that, there were multiple platforms for state fatwas to assert their authority and disrupt the policy. While iterating that birth control is permissible, state fatwas prohibited Muslims from sterilisation, and even encouraged them to have large families. Not only was the same message disseminated via multiple media platforms, ranging from television to newspapers to booklets, but religious teachers also became conduits to relay fatwas to the Muslim public.

The connection of state fatwas to religious teachers are crucial because it represents the voluntary and organic relationship between the religious bureaucrats as well as non-state religious elites. These religious teachers also control their own unique channels of dissemination, such as weekly religious sermons and events held in mosques and homes, all of which are pervasive and persuasive avenues to challenge state policies. Having them repeat the same opinion as the fatwa contributes to the establishment of a religious norm and demonstrates how Statist Islam manifest in Singapore.

Yet Statist Islam is not shaped by religious elites alone. By focusing on state fatwas, this chapter reveals how members of the Muslim community can affect the outcome of religious decrees. In examining the organ donation episode, the role of the Muslim community in shaping state fatwas should not be undermined. The long-winded and heated newspaper debate on the fatwa that prohibited organ donation indicated that state fatwas could be challenged. Alatas provided adequate theological evidence in support of organ donation, while the Fatwa Committee countered with its own set of arguments and in the end stood by its decision.

Furthermore because state fatwas can be contested, this means that there must be an alternative should an individual refuse to follow them. After all, a fatwa at its core is a *voluntary* religious instruction, except if it is backed by law. Yet the impact of Alatas' challenge was questionable. This is because despite being a relatively new religious body, state fatwas possess immense influence since they represent an age-old tradition in the Islamic faith. Furthermore, the fatwas were issued by a group of senior and established ulama, who even without the fatwa office already command considerable level of religious clout. This combination contributes to a strong traditional-societal authority that is difficult for one such as Alatas to challenge.

But where Alatas failed, other members of the Muslim community managed to inform state fatwas. Prior to the fatwa amendment that allowed Muslims to be included in HOTA, the volunteer group Muslim Kidney Action Association (MKAC) had actively petitioned for the fatwa to be reviewed. They provided several proposals over the years but it was not until 2007 that these proposals were finally accepted, leading to a change in HOTA policy for Muslims. Yet even as the MKAC lobbied the Fatwa Committee to amend its fatwas, they were careful to steer clear of any theological argument. This cautious approach showed emphases on scientific evidence, material interests, and also global Islamic norms. In essence, the MKAC made a case based on scientific and policy evidences rather than a theological one. This was clearly to avoid challenging the traditional-societal authority of state fatwas as that might elicit a defensive response that could even protract the cause, an unintended consequence of Alatas' fiery debate. The MKAC was careful not to contest the informal traditional-societal authority of fatwas; a largely abstract concept embedded in fatwas' traditional religious and societal representation, yet embodies the guarded sectoral interests of religious elites.

Coming back to Statist Islam, because state fatwas hold the highest official authority to instruct religious norms, they possess enormous influence especially when addressing the religious validity of state decisions. The first case study showed how the religious position on population control policy was affirmed through state fatwas. This was then reiterated by other religious elites, namely religious teachers who then asserted the practice among their followers. At the same time, the 'statist' element also creeps into these religious instructions as the fatwas also accepted some aspects of the state's policy, in particular the recommendation for smaller families which arguably

goes against the normative Islamic view on family planning. The combination of these demands exemplifies how Statist Islam is shaped in Singapore.

For the second case study, Statist Islam is demonstrated in how organ donation among Muslims in Singapore was shaped by state fatwas. The eventual outcome of the fatwas was not only formed by state regulation that penalised non-donors, it was also influenced by the Muslim community who constantly pushed for change. These negotiations took over three decades, and it was only after the Fatwa Committee accepted these societal recommendations that Muslims in Singapore can be presumed organ donors. This shows the various demands and interests involved in shaping Statist Islam, evident through an examination of state fatwas and religious praxis.

4.2 Asserting Legal-Bureaucratic Authority

These two case studies also demonstrated the extent of formalised legal-bureaucratic authority on fatwas and how they relate to state policies. The state still is the most significant actor as only it can choose whether or not fatwas are relevant in its decision-making process. As such the legal-bureaucratic authority of state fatwas begins with the state. When this formalised authority is invoked, the state is tied in a bureaucratic connection with the fatwa, thus allowing its policy to be shaped by the religious decree.

State policies have significant impact on fatwas. This is because state decisions affect everyone in the country, including Muslims. This compels the issuance of fatwas, especially if the policies encroach on the sectoral interest of religious elites. The case studies above on population control policies and organ transplant policies are testament to this.

The Fatwa Committee had to issue fatwas on the state population control policy which involved the use of birth control methods, as well as funding assistance for those who took part in the state-sponsored birth control programme. Similarly the organ donation fatwas, which were deliberated multiple times, had to be reviewed on many occasions as the state came up with an organ donation policy. Earlier fatwas on organ donation – permitted in emergencies – served as an ambiguous, perhaps even rhetorical guidance which would not make the fatwa immediately applicable for the Muslim public. Before HOTA was enacted, previous state fatwas on organ donation carried a cautious tone: it was forbidden, except in certain conditions. An interested party would

thus have to petition the Fatwa Committee with specific circumstances and wait for a fatwa to be issued. But with a nationwide organ donation policy being drawn up, state fatwas had to be more specific in addressing the issue. As HOTA assumes automatic consent, fatwas on organ transplant were amended and placed explicit conditions that would permit a Muslim to be an organ donor.

I have also explained how petitions from various actors could affect a fatwa. The legal-bureaucratic recognition of fatwas grants state actors access to the Fatwa Committee. Their petitions were made in the form of official memos, and at other times government ministers themselves would hold special meetings with the Fatwa Committee.⁴⁵¹ While these ministers were present at several meetings with the official task of “providing clarification on the intricacies of the issue”,⁴⁵² their presence clearly risked undermining the direction of the discussion. This tells of the various levels of ‘pressure’ used by the state which initially was kept as distant, impersonal messages, failing which it was followed up by government ministers themselves joining in fatwa discussions. Although these petitions advanced by state actors led to stubborn responses, it also showed the capacity of the state to affect these deliberations by including its own representatives in these religious consultations.

Having clear bureaucratic connection to the state therefore opened up fatwas to challenges by state actors. Despite clear postulation from the state, I argue that state fatwas remained largely autonomous. Aside from examples of state petitions cited earlier – in which the mufti noted that state policy should find a ‘middle way’ to accommodate state fatwas – more explicit statements can be found in other instances. For example, the Fatwa Committee minutes of meeting recorded that it “should avoid being perceived as being inconsistent, and easily change a fatwa every time it gets nudged or pressured.”⁴⁵³ Thus the bureaucratic playing field, while allowing fatwas to enter policy negotiations, also opened fatwas to state interventions.

⁴⁵¹ In Singapore, government ministers here refer to the parliamentarians who are affiliated to the ruling People’s Action Party (PAP) which has dominated the government since independence. The opposition made a relatively significant political breakthrough only in 2011.

⁴⁵² ‘Mesyuarat Jawatankuasa Fatwa [Fatwa Committee Meeting]’ (Majlis Ugama Islam Singapura, 28 May 1986), 1.

⁴⁵³ ‘Mesyuarat Jawatankuasa Fatwa [Fatwa Committee Meeting]’ (Majlis Ugama Islam Singapura, 10 April 1996), 3. This statement came when discussing the issue of Advanced Medical Directive (AMD) also known as a living will, in which a patient issues an advance decision to refuse treatment for when he or she is unable to communicate to the physician. The fatwa stated that three specialists are required to confirm the status of the patient being “terminally ill”. In 1996, there was a letter from

I also demonstrated the extent of formalised legal-bureaucratic authority on state policies, in particular when state fatwas were included in policy formulation. In such a case, state policies became tied to the fatwas – albeit voluntarily – even though they were not legally obliged to do so. This is interesting because it was not legal coercion that made the state tie itself to fatwas, rather it was bureaucratic logic that forced this adherence. When fatwas remained unchanged, the state had to accommodate them (by creating exemption for Muslims from HOTA). This also means that once the fatwas were revised, the state had to amend its policy (i.e. by including Muslims in the organ donation system). This arbitrary manner on how the state engaged its religious constituency is reflective of the convoluted, messy nature of even the most bureaucratic of authoritarian states. Solely by being recognised as the state fatwa in Singapore, unwritten bureaucratic logic made policymakers adhere to these religious decrees, and enabled fatwas to advance religious demands in state policies.

5 Conclusion

To conclude, these two case studies which span a period of more than three decades highlight the complicated relationship between fatwas and the state. State fatwas remain a key reference point for Muslims in Singapore (and elsewhere). Because of that, they are a coveted legitimisation instrument that can be susceptible to changes due to transformations in state policies societal pressures, and lobbying efforts.

State fatwas form a useful tool that can shape normative religious praxis in a country. While legal and bureaucratic recognition accords state fatwas with positional authority in the bureaucracy, it does not guarantee their relevance in affecting state decisions, especially if the state arbitrarily decides when this occurs. Hence state fatwas are very reliant on their informal traditional-societal authority that represents a more consistent form of reverence among Muslim followers, and is – to a large degree – independent of state whim. This also explains why state fatwas exhibit proclivity to rely on informal traditional-societal authority; it embodies the very core of their function that enables religious decrees to be continuously sought after even when they are not recognised by state power. This is evident not only in cases where state fatwas were not consulted

a non-elected member of parliament asking the fatwa committee to review the requirement; since the AMD Act requires only two specialists to ascertain the status of the patient, it falls short of the fatwa's requirement of having three specialists. The fatwa committee stood by their decision, citing that the issue for AMD is less time-sensitive than HOTA, thus there should be no difficulty in obtaining three specialists.

in state decisions, but also in popular online fatwas that spread beyond countries and borders. For state fatwas, this channel of authority enables them to contest state decisions, and preserve a brand of Islamic observation in a country.

These contestations culminate in how Statist Islam is shaped in a secular authoritarian milieu. Through its bureaucratic power and capacity to exercise unilateral policies, the state possesses great advantage in influencing religious observances. Yet rather than the state solely dictating policies that affect religious positions, I have shown that state decisions can be tempered through state fatwas, which embody the direct connection of religious instruction to the Muslim community. This indicates that Statist Islam – the culmination of state-religious negotiation – is not merely the domain of the authoritarian state and societal pressure, but also prone to contestations through fatwas.

The case studies in this chapter revealed the scope in which state policies engaged fatwas, and vice versa. Despite examples of aggressive implementation of state policies and the proximity of the fatwa institution to the state, state fatwas remained obstinately persistent. The bureaucratisation of Islamic religious institutions, as I have pointed out in previous chapters, is thus not a complete subjugation of bureaucratised constituents but a relationship built on persistent negotiations and contestations. The benefits of being closely positioned to each other is both a blessing and a curse for the actors involved, and this bears true for both the state and the fatwa institution.

Because of this, state fatwas are very much an oddity in state bureaucracy; formally dependent on state powers to preserve religious authority, yet autonomous enough to express religious demands against the state. And while state fatwas are expected to reflect societal norms and expectations, they can also prove resistant to societal demands. These glimpses of ambivalence to affiliate to either state or society persisted through negotiations over various numbers of issues. This suggests that state fatwas are neither acting in societal nor state interests, rather they represent the sectoral objectives of religious elites, which as mentioned in previous chapters include the expansion of religious institutions, the preservation of orthodoxy, and upholding public morality.⁴⁵⁴

⁴⁵⁴ Pierret, *Religion and State in Syria*, 163–64; Skovgaard-Petersen, ‘A Typology of State Muftis’.

In the next chapter, I shall investigate another form of formalised authority that state fatwas depend on. If bureaucratic authority allowed fatwas to affect state policy, legal authority will show us what happened when state fatwas were challenged by the court. We shall see, yet again, the informal traditional-societal authority, or the ‘softer’ side of state fatwas, being invoked to challenge court decisions.

Chapter 5: Contesting Legal Authority: Islamic Law in Civil Law

1 Introduction

The previous chapter on organ donation and family planning policies demonstrated how state fatwas played a key role in negotiating and informing religious demands against the state while preserving the sectoral interests of religious elites. Whereas the family planning episode highlighted the informal traditional-societal authority of state fatwas, the organ donation policy showed how their formalised legal-bureaucratic authority was asserted.

For this chapter, the question that I ask is if state fatwas could negotiate the outcome of state policies by being included in policymaking process, how would they fare when they are brought to court? Also, how do state fatwas retain their authority when they were judged to be repugnant to the law? In other words, as the court decided that certain religious rulings issued in state fatwas were contradictory to civil law, how do these fatwas remain relevant to the very society that they seek to instruct? These questions are central to my thesis because it examines the extent of state fatwas' formalised authority. If the previous chapter scrutinised formalised authority that stems from bureaucratic relationship, this chapter will look at another channel of formalised authority, one that relies on legal recognition.

I will examine the legal authority of state fatwas by analysing court cases where they were challenged. The points I wish to make are threefold. Firstly, although the recognition of fatwas in the legal framework can be described as a way to regulate religious interests, it did not restrict them from contesting court judgements. Secondly, in reconstructing how state fatwas asserted their informal authority in the aftermath of legal challenges (a similar pattern when they came into conflict with state policies), it became apparent that state fatwas continued to give advice that was inconsistent with the law while attempting to reconcile these legal differences. Thirdly, the outcome of these legal episodes demonstrated the extent of policy feedback in negotiating with the judiciary. This is rooted in the differences in how the Muslim legislation in Singapore, the Administration of Muslim Law Act (AMLA), is interpreted in state fatwas and court judgements. The differences in interpretation resulted in these legal episodes that reveal another facet where Statist Islam is contested and defined.

The following discussion is divided into four main parts. The first part will briefly establish the background and current context of Islamic law in Singapore's legal system. It will also underline the importance of court judgement as an indicator of state fatwas' legal-bureaucratic authority. The second part will detail three court cases that challenged the authority of state fatwas. These stem from fatwas on Muslim inheritance law that were brought to court and later amended to concur with court judgements. The third part will analyse the limitation of state fatwas' legal authority, despite which they managed to maintain their initial religious rulings through informal traditional-societal authority. I will then conclude with the assessment that the legal authority of Islamic institutions and Islamic law in Singapore is prone to 'harmonisation' projects designed to accommodate contradictions between religious and secular laws. This exhibits the legal limitation of feedback effect through state fatwas.

2 Background

While Shariah law covers all aspects of Islamic ritual practices, social conduct, and even penal law, its recognition in the modern state is mostly confined to inheritance, marriages, and divorces. In the secular civil law framework, these components come under Islamic family law. This is an inheritance of colonial legacy which had included Islamic family law as a recognised religious practice.

Islamic family law in the post-independence period does not differ in theory from the earlier practices gleaned from classical Muslim works. Marriages, divorces, and inheritance laws are based on the same classical practice of more than a millennium ago. But the legality of Shariah law in Singapore today is situated within the secular legal framework. As the state oversees the application of law, and by legislation endorses both forms of Islamic and secular civil laws, this leads to complications between the two. Although observance of Islamic family law remains largely unchanged throughout time, its inclusion into the secular law framework problematises *how* it is being practised. It has thus been argued that significant changes to Islamic law occurred because of its application in the modern state.⁴⁵⁵

⁴⁵⁵ Hussin, *The Politics of Islamic Law: Local Elites, Colonial Authority, and the Making of the Muslim State*.

Today, Islamic law in Singapore operates in three main areas: marriages, divorces, and inheritance, all provisioned in Singapore's Administration of Muslim Law Act (AMLA), the legal statute which regulates Muslim religious affairs. The foremost inheritance instrument for Muslims is the Islamic intestate law called *farā'id* (alt. *faraid*) which distributes fixed portions of a property for eligible heirs. Another instrument is the Islamic will called *waṣiyyah* (alt. *wasiat*) in which only a maximum of one-third of the deceased's property can be allocated for non-heirs.⁴⁵⁶ Other religious inheritance instruments mentioned in AMLA include *nadhrah* (vow, alt. *nazar*), and *waqf* (charitable endowment, alt. *wakaf*).⁴⁵⁷ AMLA gave legal recognition to these instruments and made them legally sound within civil law. By enabling the legal recognition of these Islamic inheritance instruments, complications arise on how exactly they should be implemented vis-à-vis secular inheritance law. Ergo, legal complication occurs not because Islamic intestate law is not recognised, rather due to its secular-legal recognition.

It could also be said that the overarching secular legal framework does not completely inhibit the practice of Islamic law. In fact, Islamic family law is empowered in the secular legal framework through a niche statute for Muslim administration. However, the ambiguity of written law resulted in the incongruent interpretation of how Islamic and civil laws interact. Furthermore, Singapore's unique authoritarian policies create an extra layer of complication for state fatwas as these policies also challenge some of the traditional religious positions backed by these fatwas.

To illustrate, the Singapore state mandates a compulsory savings plan on its citizens. Present law dictates that twenty percent of a Singaporean worker's monthly salary is credited to the Central Provident Fund (CPF) account. The function of the account is restricted to certain medical, housing, and retirement expenditures. In line with a law known as the CPF Act, the fund allows for the nomination of a single person as the nominee of the account, who will then inherit the money upon the demise of the

⁴⁵⁶ The *waṣiyyah* is typically bequeathed to those who are not eligible for a share in *farā'id*, for example a friend of the deceased.

⁴⁵⁷ While the *farā'id* exclusively pertains to next-of-kin relatives, *waṣiyyah*, *nadhrah*, and *waqf* provide additional options for the deceased to distribute his money to non-relatives, institutions, and organisations. However since the *waṣiyyah* is capped at a maximum of one-third of the total property, this means that the deceased has no say on how two-thirds of his property is going to be distributed through *farā'id*. The *farā'id* effectively prevents the deceased from striking out any qualified heirs in obtaining a share of his property.

account holder. However this was not readily recognised by the Fatwa Committee, which in a 1971 fatwa regarded the nominee of the account merely as a trustee who has to distribute the money to eligible heirs by *farā'id*.⁴⁵⁸

Another example is Singapore's public housing system. The vast majority of the population resides in flats purchased from the state-linked Housing and Development Board (HDB). These flats can either be bought by one owner or shared through other manners of holding such as joint tenancy. Joint tenancy means that both the owners retain an equal share of the property, and when one of them passes, the surviving owner will inherit the whole property. However, the Fatwa Committee did not recognise the right of survivorship in Shariah, and regarded the status of the surviving owner as a trustee instead of a surviving tenant who inherits the property.

These differences are facilitated through AMLA, which allows Muslims to dispose their wealth according to Islamic law. However over time as civil law continues to change and evolve, it forces the amendment of state fatwas to be more in line with the secular legal system. Yet as I will show, state fatwas persistently promote their interpretation of Islamic inheritance law that contradicts court judgement. This indicates how Statist Islam continues to be shaped by state fatwas despite restrictions placed by the courts.

2.1 Policy, Law, and Fatwa

At a cursory glance, Singapore practices a wholly secular legal system that incorporates both secular and Islamic laws in family legislations. There are certain accommodations for Muslims in exercising their religious rights when it comes to family law. For example the institutions in charge of marriages and divorces are the Registry of Muslim Marriages and the Syariah Court respectively, while non-Muslims come under the purview of the Registry of Marriages.

The reason for this distinction is rooted in the statutes. Laws pertaining to Muslim marriages, divorces and inheritance are covered under AMLA, while non-Muslims are covered under various other laws. As mentioned in Chapter 3, the legal provision for Muslims is a result of several social, political, and historical factors. This resulted in the legal doctrine that "all cases regarding the ceremonies of religion and marriages

⁴⁵⁸ 'Mesyuarat Jawatankuasa Fatwa [Fatwa Committee Meeting]' (Majlis Ugama Islam Singapura, 30 October 1971).

and the rules of inheritance, the laws and custom of the Malays will be respected”, i.e. left to the discretion of Malay rulers. As the throne was forced out, the religious vacuum in Singapore was filled by religious elites who then reigned as the highest religious authority on the island, eventually obtaining official recognition under the Mohammedan Marriage Ordinance in year 1880. This stamped state approval on their position; they became not only the Muslim community’s religious representatives, but the ones whom the political authorities have to officially deal with in matters of religion.

The restriction to operate in the domains of marriage, divorce, and inheritance does not necessarily mean the diminishing legal relevance of Islamic religious elites. Limiting their role to these specific realms of family law also forced them to be more entrenched in these domains. This resulted in the resolute stubbornness of religious elites to loosen their grip when challenged as these areas represent the last fragments of legal relevance for the ulama. Their modern legal significance was eventually cemented with the integration of Malay-Muslim provisions in Singapore’s constitution in 1965, and AMLA a year later.

2.2 Fatwa and Soft Law

In a state that prides itself for being secular, the court can define how seriously this claim is asserted. Because state fatwas instruct Islamic religious observances, and given how prevalent such observances are in daily life, there are bound to be areas where religious decrees and secular law overlap.

However a (secular) court deciding on religious matters is a problematic issue. For a start, judicial inquiry into religious questions is parallel to what is known as the “political question doctrine”.⁴⁵⁹ This means that just as the courts do not have the authority to resolve political questions because these enquiries ideally rest on the political branch of the state, religious questions must also fall on the jurisdiction of religious bodies and not the courts. The judiciary should also avoid examining religious questions as it can compromise the claim of state-church (or indeed state-Shariah) separation. This is analogous to courts answering political questions, where

⁴⁵⁹ Jared A Goldstein, ‘Is There a Religious Question Doctrine-Judicial Authority to Examine Religious Practices and Beliefs’, *Cath. UL Rev.* 54 (2004): 499.

the result would raise concern over the separation between the judicial and the political branches of the state.⁴⁶⁰

For the Singapore state, however, such concerns arguably bear little significance. This is because one factor to consider when discussing Singapore courts (or even Southeast Asian ones in general) is the authoritarian government's reputation for exploiting the rule of law. While many Southeast Asian governments claim their judiciary to be independent of the executive branch,⁴⁶¹ there is no shortage of academic studies arguing otherwise especially when an involved litigant is a high-ranking political member of the state.⁴⁶² The Singapore state is also known to have incarcerated critics without trial for supposed subversion,⁴⁶³ and in more recent times bankrupted opposition politicians through an arbitrary interpretation of the defamation law.⁴⁶⁴ The Singapore state is therefore described as a "hyper-judicial" organisation that takes advantage of the legal system in order to retain power and pursue political goals.⁴⁶⁵

Where religious matters are concerned, the courts have the power to either expand or limit the scope of religion in the state. Examining how courts judge state fatwas essentially marks the reach of the court's secular legal interpretation of religious matters against the authority of these fatwas. Previous accounts of state-religious legal contestations in Singapore lead some to assess that the country practises a "quasi-

⁴⁶⁰ Goldstein, 500.

⁴⁶¹ 'Mahkamah Malaysia Bebas Daripada Mana-Mana Pengaruh [Malaysian Courts Are Free of Any Influence]', *MStar Online*, 16 September 2016, <http://www.mstar.com.my/berita/berita-semasa/2016/09/16/mahkamah-malaysia-bebas/>; 'Second Reading Speech by Minister for Law, Mr K Shanmugam, on the Administration of Justice (Protection) Bill', Ministry of Law, 15 August 2016, <http://www.mlaw.gov.sg/content/minlaw/en/news/parliamentary-speeches-and-responses/second-reading-speech-by-minister-for-law--mr-k-shanmugam--on-th1.html>.

⁴⁶² Hoong Phun Lee, *Constitutional Conflicts in Contemporary Malaysia* (Oxford University Press, 2017); Min Aun Wu, 'The Malaysian Judiciary: Erosion of Confidence', *Australian Journal of Asian Law* 1, no. 2 (1999): 124; Francis Seow, 'The Politics of Judicial Institutions in Singapore' (1997), <http://www.gn.apc.org/sfd>; Francis T Seow, *Beyond Suspicion?: The Singapore Judiciary*, vol. 55 (Yale Univ Southeast Asia Studies, 2006); Rodan and Hughes, *The Politics of Accountability in Southeast Asia*; C Neal Tate, 'The Judicialization of Politics in the Philippines and Southeast Asia', *International Political Science Review* 15, no. 2 (1994): 187–97; Garry Rodan, *Transparency and Authoritarian Rule in Southeast Asia: Singapore and Malaysia* (Routledge, 2004).

⁴⁶³ Ping Tjin Thum, 'Justifying Colonial Rule in Post-Colonial Singapore', *New Naratif* (blog), accessed 15 April 2018, <https://newnaratif.com/research/justifying-colonial-rule-in-post-colonial-singapore/>; for debate on the issue cf. Kumar Ramakrishna, 'ORIGINAL SIN?': *Revising the Revisionist Critique of the 1963 Operation Coldstore in Singapore* (Institute of Southeast Asian Studies, 2015).

⁴⁶⁴ Seow, 'The Politics of Judicial Institutions in Singapore'; Rodan and Jayasuriya, 'The Technocratic Politics of Administrative Participation: Case Studies of Singapore and Vietnam'.

⁴⁶⁵ Turner, 'Soft Authoritarianism, Social Diversity and Legal Pluralism: The Case of Singapore', 77.

secular”⁴⁶⁶ legal approach. This is because religion is, to some extent, accommodated in the secular public life yet “subordinated to government priorities and imperatives”.⁴⁶⁷ This assessment is also supported by the arbitrary “informal standards” that the state exercises to interpret the written constitution, which in essence underlines the authoritarian norms of the Singapore state.⁴⁶⁸

Yet this does not mean that examining court judgements is a futile attempt at understanding state-religious dynamics. Even if we were to take the secular-religious arbitration in courts as a space where religious contestations are allowed to occur, legal battles indicate how much of this pre-approved boundary can be pushed. This is a crucial point because, as this chapter will illustrate, state fatwas do not stop being useful once they were overruled by the court. Rather there is an additional side to them that sheds light on how – in an authoritarian state no less – state fatwas can circumvent court decisions. This chapter therefore not only examines the outcome of court cases concerning fatwas, but also explores how legal secular-religious boundary in Singapore is contested *beyond* the courts.

Exploring how state fatwas function beyond the courts further reveals the extent of their informal traditional-societal authority. In the previous chapter, we have seen how these fatwas contested against official state pronouncements through various forms of authority. I have also mentioned how the traditional-societal authority of state fatwas represents their essence in instructing the Muslim community.

As traditional-societal authority allows state fatwas to promote Islamic legal norms beyond official legal channels, it replicates a form of soft law: an instrument that abstains from forcing legal obligations on groups or individuals while not neglecting legal adherence to particular responsibilities and commitments.⁴⁶⁹ If formalised legal-bureaucratic authority equates to hard law because it depends on the relevant written legislations, informal authority or soft law typically constitutes resolutions and guiding principles. Unlike hard law, soft law is “not restricted to the text of any one

⁴⁶⁶ Thio, ‘Control, Co-Optation and Co-Operation: Managing Religious Harmony in Singapore’s Multi-Ethnic, Quasi-Secular State’, 252.

⁴⁶⁷ Thio, 253.

⁴⁶⁸ Thio, ‘Soft Constitutional Law in Nonliberal Asian Constitutional Democracies’, 414.

⁴⁶⁹ Rodley, ‘Non-State Actors and Human Rights’, 533.

convention” or law, and this gives soft law practitioners a “uniquely flexible and independent role,”⁴⁷⁰ analogous to how state fatwas operate.

The applicability of soft law is not limited to the themes of human rights law, commercial law, or transitional justice which it originates from,⁴⁷¹ but also local constitutional law. Thio, in describing the legal characteristics of Southeast Asian countries, argues that the ability to translate constitutional law into soft law is a feature of “nonliberal Asian democracies with strong governments and weak courts”.⁴⁷² The ambiguity of the constitutional text is interpreted by the state to protect its interests via “informal norms”,⁴⁷³ consequently affecting the role of religion in the public sphere. Here, soft law is deployed through legal interpretation; the constitution is marshalled as an informal regulation to encourage groups and individuals to abide by certain state-sanctioned norms.

Literature on soft law in Singapore typically address it as an instrument or extension to promote normative behaviour on citizens. In a separate article, Thio examined the 2003 Declaration of Religious Harmony in Singapore, a soft law instrument that lacks legal status, yet “exerts some degree of legal impact and influence in shaping state-society relations.”⁴⁷⁴ Mathew meanwhile iterated Singapore’s unenforceable “soft-law measures” which combined norms and institutions to manage religions.⁴⁷⁵ Just like Thio, he cited the Declaration of Religious Harmony that was later followed by the state-sponsored establishment of the Inter-Religious Harmony Circle, a grouping of various religious leaders that motivates self-policing behaviour. Tan – in narrating the state’s methods in managing terrorism – cited the flexible and discursive qualities in soft law that enables it to set “normative standards and enable social learning” and complements hard law.⁴⁷⁶

These studies on religious management and soft law raise two points that I wish to make. Firstly, when discussing ‘religious harmony’, we should see it beyond the

⁴⁷⁰ Piccone, ‘The Future of the United Nations Special Procedures’, 727.

⁴⁷¹ Anna Di Robilant, ‘Genealogies of Soft Law’, *The American Journal of Comparative Law* 54, no. 3 (2006): 499.

⁴⁷² Thio, ‘Soft Constitutional Law in Nonliberal Asian Constitutional Democracies’, 798.

⁴⁷³ Thio, ‘Between Eden and Armageddon: Navigating Religion and Politics in Singapore’, 365.

⁴⁷⁴ Thio, ‘Soft Constitutional Law in Nonliberal Asian Constitutional Democracies’, 416.

⁴⁷⁵ Mathews Mathew, ‘Understanding Religious Freedom In Singapore’, *The Review of Faith & International Affairs* 11, no. 2 (2013): 32.

⁴⁷⁶ Eugene KB Tan, ‘From Clampdown to Limited Empowerment: Soft Law in the Calibration and Regulation of Religious Conduct in Singapore’, *Law & Policy* 31, no. 3 (2009): 355.

façade of physical interactions between members of religious groups. This is because the state also banks on religious harmony as an indicator of the efficacy of its authoritarian policies. The more ‘harmonious’ the relationship between the various religions, the more the state can claim legitimacy for its policies, or even expand them. The management of ‘religious harmony’ therefore does not stop at ‘good’ relations between religions, but also between religious law and state law. As the cases below will show, there is a conscious attempt by the state to harmonise between different sets of laws, specifically Islamic and secular laws. This shows that the state management of religious affairs extend beyond simply ensuring cordial relations between faith groups, but also that the overarching dictum of state secularism is not contested in legal terms, not even by state fatwas.

Secondly, the studies provided important contextual background to the hard law/soft law dynamic in Singapore. They also addressed the complementary feature of soft law to hard law. However by analysing state fatwas as a form of soft law, it becomes apparent that they do not necessarily complement the hard law that is AMLA. This is because the final word on AMLA’s interpretation lies with the court. State fatwas meanwhile, as we have seen in the previous chapter, utilise their informal soft law authority to *contest* state decisions. If soft law complements hard law, then clearly state fatwas’ hard law is not AMLA since that is supposed to conform to state demands and can be restricted by the court. Rather the hard law basis of state fatwas is something else: the written rulings of Islamic religious law, i.e. the Shariah. In other words, the Shariah provides the explicit legal basis of religious law, which state fatwas then act as a soft law instrument to promote normative Shariah-based religious behaviour among Muslims. Which is why, as we shall see, state fatwas can contradict secular court decisions because it is wholly driven by another set of law, and not AMLA.

3 Judging Fatwas

I will present three state fatwas to support the points above. (See Table 2) The first fatwa concerns the Islamic inheritance instruments of *farāid* and *nudhriyyah* (alt. *nuzriah*). Typically when a Muslim dies, his property is distributed according to a fixed-ratio intestate system called *farāid*. A key characteristic of the *farāid* is that a male heir typically gets double of what a female heir gets because, among other reasons, financial support for dependents rests almost completely on the male heir.

Alternatively, a Muslim has the choice to issue an Islamic will, subject to the conditions that it does not exceed more than one-third of his property, and bequeathed only to non-heirs. Then there is the lesser-known instrument called *nudhriyyah*, a contract undertaken by a Muslim to distribute his wealth according to his own pre-determined ratio, effectively bypassing the *farā'id* and one-third limit of the will. But as *nudhriyyah* is not explicitly stated as an inheritance instrument in AMLA, complications arose when the Fatwa Committee and civil court took opposing views on its validity.

The second fatwa relates to joint-tenancy agreement where two parties become joint owners of a property. According to Singapore civil law, the right of survivorship applies upon the death of a joint owner, i.e. the deceased's half-share will automatically be transferred to the remaining co-owner, whether or not a will is recorded.⁴⁷⁷ So even if the deceased left behind a will that includes a property bought on a joint-tenancy agreement, the inclusion of that property in the will is void. This, however, was refuted by a state fatwa which dismissed the right of survivorship in Islamic law. The fatwa decreed that upon the death of a Muslim joint owner, the deceased's 'half share' – i.e. 50% of the property – must be distributed according to *farā'id*. This means that, and this applies only to Muslims, the surviving joint owner gets only half of the property, while the deceased joint owner's share is passed to his or her heirs. But in 2008, a new fatwa was issued to allow the surviving joint tenant to inherit all of the property, effectively giving a nod to the predominant practice in civil law.

The third fatwa pertains to CPF nomination. The CPF is a mandatory retirement and savings plan for all Singapore citizens. A percentage of an individual's income is channelled into the CPF account which is typically used on mortgage payment, medical expenses, and pension savings. As there are very stringent restrictions on its usage, the money in the account tends to accumulate through income and interest earnings. Each CPF account holder can name a nominee who will inherit the money in the account upon the account holder's demise. Initially for Muslims, this nomination did not allow the nominee to inherit the funds in the account. Instead, as decreed in a

⁴⁷⁷ 'Manner of Holding', HDB InfoWEB, accessed 29 June 2016, <http://www.hdb.gov.sg/cs/infoweb/residential/living-in-an-hdb-flat/changing-owners-occupiers/transfer-of-flat-ownership/manner-of-holding>.

state fatwa, the nominee is regarded only as a trustee who then has to distribute the funds to the deceased's heirs according to *farā'id*. However in 2010, the state fatwa was amended to allow the nominee to inherit the funds.

| | Fatwa 1: <i>Nudhriyyah</i> | Fatwa 2: Joint Tenancy | Fatwa 3: CPF Nomination |
|--------------|---|--|--|
| 1957 | | | Enactment of CPF Act |
| 1966 | Enactment of AMLA | | |
| 1971 | | Original fatwa on joint tenancy | |
| 1979 | | | Original fatwa on CPF nomination |
| 1990 | | | <i>Saniah bte Ali v Abdullah bin Ali</i> |
| 1990s | Original fatwas issued on <i>nudhriyyah</i> | | |
| 2004 | <i>Mohamed Ismail Bin Ibrahim and Another v Mohammad Taha Bin Ibrahim</i> | | |
| 2006 | | | (2006-2010) CPF Act amendments |
| 2007 | Amendment of <i>nudhriyyah</i> fatwa | | |
| 2008 | | Amendment of fatwa on joint tenancy | |
| 2009 | | <i>Shafeeg bin Salim Talib and Anor v Fatimah bte Abud bin Talib and Ors</i> | |
| 2010 | | | Amendment of CPF nomination fatwa |

Table 2 Timeline of the state fatwas and legal events mentioned in this chapter

These episodes demonstrate how state fatwas became entangled in legal cases. The recognition of fatwas in the modern state is not solely based on their bureaucratic link, but also their legal status. This legal aspect of state fatwas underlines their recognition by the courts and their position within the larger legal framework. Examining the role and authority of state fatwas in the legal domain will assess the effects of policy feedback through the courts. Fatwas' legal authority is also examined, especially as they were supported by, and later found to have contradicted AMLA. To be more exact, this chapter shall detail how these fatwas were reinforced and readjusted in the face of legal repercussions, and the measures taken by the Fatwa Committee to ensure the continued relevance of state fatwas, thus shaping Statist Islam beyond court orders.

3.1 Nudhriyyah

Traditionally upon the death of a Muslim property owner, the property is divided to eligible heirs according to the Shariah intestate law called *farā'id*. Even if the deceased issued a will – called a *waṣiyyah* – it has to abide by several conditions, among them it cannot exceed more than one-third of the total property. What is left after setting aside for the will (and various other expenses such as outstanding loans) is then distributed according to the *farā'id* which divides the property only to the spouse and closest biological heirs, typically the parents and children.

As mentioned above, *nudhriyyah* is an instrument that allows the owner to circumvent the conditions of a will. Prior to the court case, there were many petitions for state fatwas on *nudhriyyah*. Interest in *nudhriyyah* stems from exceptional scenarios, such as where the potential male heirs displayed irresponsible, or even criminal tendencies. As the male usually gets the lion's share in *farā'id*, the prospect of leaving a large portion of the inheritance to suspect male heirs has led to petitions from individuals and lawyers representing property owners who want to exercise *nudhriyyah*. Another scenario where *nudhriyyah* could be invoked is if the family has adopted children whose allocation are not guaranteed under *farā'id*. *Nudhriyyah* allows all of a deceased's property to be distributed exactly as he or she wants, which ensures a certain amount to be given to those left out of the inheritance.

While the Muslim will also provides a way for the cases mentioned above, there are several differences between it and *nudhriyyah*. The key distinction between a Muslim will and *nudhriyyah* is that the former is restricted by stringent rules; the Muslim will

cannot exceed one-third of the total property, and it also cannot be given to someone who is receiving a share through *farāid*. So for a Muslim parent who has a son and a daughter and wants to set aside an extra amount for the daughter, the will is invalid because she is already an eligible heir under *farāid*. This is where *nudhriyyah* becomes a desired instrument for some because it allows for the property to be divided according to the owner's discretion.

Before moving on to the case, let us briefly look at the development of *nudhriyyah* as an instrument of Islamic law in Singapore. Laws pertaining to intestate law and testaments are governed under the Intestate Succession Act and Wills Act. For Muslims, however, it comes under AMLA, which in Part VII stated the “distribution of Muslim estate to be according to Muslim law,” and that the “disposition by will, etc., to be in accordance with Muslim law”.⁴⁷⁸ In particular, section 111(1) of AMLA addressed the stipulations of Muslim will, that “no Muslim domiciled in Singapore shall...dispose of his property by will, or by any nomination...except in accordance with the provisions of and subject to the restrictions imposed by the school of Muslim law professed by him.” Section 112(1) meanwhile outlined the intestate distribution of the Muslim estate (*farāid*), by stating that “any Muslim person domiciled in Singapore dying intestate, the estate and effects shall be distributed according to the Muslim law as modified, where applicable, by Malay custom.”

AMLA also gives legal recognition to various other Islamic inheritance instruments such as *farāid*, *waqf* or religious endowment, and the charity vow of *nadhar*. My focus in this chapter, *nudhriyyah*, is linked to the charity vow *nadhar*. *Nudhriyyah* itself is a derivative of *nadhar*, both sharing the same root word. *Nadhar* is defined as “an expressed vow to do any act or to dedicate property for any purpose allowed by the Muslim law.”⁴⁷⁹ AMLA stipulated that a *nadhar* exceeding more than one-third of the property to be invalid,⁴⁸⁰ a well-accepted feature of Islamic inheritance law that safeguards the shares of biological heirs.

Nudhriyyah meanwhile is a variation of the *nadhar* in which a Muslim vows to distribute the property *before* his death. The *nudhriyyah* contract comes into effect prior to a person's death, specifically “3 days before the Deceased's death, or 1 hour

⁴⁷⁸ Administration of Muslim Law Act, pt. VII.

⁴⁷⁹ Administration of Muslim Law Act, sec. 2.

⁴⁸⁰ Administration of Muslim Law Act, sec. 60.

before his death in the case of a sudden death.”⁴⁸¹ Because *nudhriyyah* is essentially a transaction made before death, the state fatwa argued that this excludes it from being a will (which is a transaction effective upon death). As such, the fatwa sees *nudhriyyah* as not tied to the conditions of the Muslim will. This means that *nudhriyyah* can exceed more than one-third of the property, and that it can be allocated even for eligible *farāid* heirs.

Fatwas on *nudhriyyah* were recorded in the 1990s, although according to the former mufti Syed Isa Semait the practice of *nudhriyyah* in Singapore is not a contemporary one.⁴⁸² *Nudhriyyah* could be traced back to Yemeni roots where early Muslim missionaries in Southeast Asia originated from. However it is not popular in the greater Muslim world. Even in neighbouring Malaysia, *nudhriyyah* is not widely accepted as a valid Islamic succession instrument.

While *nudhriyyah* in Singapore is accepted as a form of estate planning in lieu of the Muslim will and *farāid*, it did not garner public attention until a court case in 2004. *Mohamed Ismail Bin Ibrahim and Another v Mohammad Taha Bin Ibrahim* (henceforth *Mohamed Ismail*) revolves around the dispute of a property worth S\$1.3 million left by a father of ten who passed away in 1997. He had instructed one-third of his property to be willed to mosques, one-third distributed according to *nudhriyyah*, and one-third to be distributed according to *farāid*. Among the recipients included in the *nudhriyyah* contract were his wife and five of his children.⁴⁸³

However the validity of *nudhriyyah* was disputed by the deceased’s son and daughter – the plaintiffs in the case – who insisted their father’s property to be distributed according to *farāid*. The case was then brought to the high court. The fact that the high court can judge whether a state fatwa is valid already demonstrates the jurisdictional primacy of the civil high court over Islamic law in Singapore. But to what extent does the civil high court preside over Islamic law? And how does the judgement of the court affect future state fatwas?

⁴⁸¹ Mohamed Ismail bin Ibrahim and Another v Mohammad Taha bin Ibrahim (High Court 22 September 2004).

⁴⁸² Interview with Syed Isa Semait, August 2016

⁴⁸³ It might be of relevance note to say here that the *nudhriyyah* was not approved by Singapore’s Syariah Court. However this point is excluded from this research as it seems that the Singapore’s Syariah Court was unaware of the fatwa on *nudhriyyah* for the aforementioned property.

This warrants a closer look at the court proceeding and its aftermath. The expert witness for the plaintiffs argued that the *nudhriyyah* was invalid because of the severe distinction between *nadhar* and *nudhriyyah*; while the former is an established instrument, the latter is said to be absent in legal textbooks and “is not known nor practised in Indonesia, Malaysia or any part of the Muslim world of the Shafii school.”⁴⁸⁴ The Shāfi`ī (alt. Shafii) school refers to the most prevalent school of Islamic law in Southeast Asia, and one of the four schools in the world today. Each of this school of thought is also called a *madhhab* (alt. *mazhab*) that reflects a distinct interpretation of Islamic law.

The mufti at the time – Syed Isa Semait – acted as the expert witness for the defendant. He cited several reasons for the validity of the *nudhriyyah*; such as its long-held practice among Yemeni Muslims and references in religious literature. In his testimony, he claimed that the practice is at least 500 years old, and that more than 36 Singapore state fatwas allowing *nudhriyyah* were issued since 1997.⁴⁸⁵

During the court case, fatwas on *nudhriyyah* were still being issued. Although aware of the potential complication due to the ongoing court case, these fatwas nonetheless decreed that *nudhriyyah* is a sound instrument, yet cautioned that this position will not relate to the court’s pending judgement.⁴⁸⁶ This caveat was the right step for the Fatwa Committee as *nudhriyyah* was eventually ruled invalid in the civil court. The full text of the judge’s statement is a fascinating read, but in summary the judge decided that *nudhriyyah* was found to be in contradiction of section 60 of AMLA that limits all forms of Muslim will to only one-third of the property.⁴⁸⁷ He also contested the validity of *nudhriyyah* in classical Islamic law literature, and cited a legal precedent in 1933 when a form of *nudhriyyah* was invoked but dismissed by the High Court of the Straits Settlement.⁴⁸⁸

⁴⁸⁴ *Mohamed Ismail* paragraph 22.

⁴⁸⁵ *Mohamed Ismail* paragraph 24; Khartini Khalid, ‘Panel Fatwa Sepakat Ia Sah’, *Berita Harian*, 6 July 2004. In an interview the author did with the ex-mufti in 2016, he said that the deceased himself was a knowledgeable Muslim, having learned from Singapore-based ulama of Yemeni descent Syed Umar Alkhatib

⁴⁸⁶ ‘Mesyuarat Jawatankuasa Fatwa [Fatwa Committee Meeting]’ (Majlis Ugama Islam Singapura, 6 April 2004).

⁴⁸⁷ *Mohamed Ismail* paragraphs 49–51.

⁴⁸⁸ *Mohamed Ismail* paragraph 47.

Court decisions pose serious legal challenge to the authority of state fatwas as the instructor of Islamic law in the country. Despite the ‘hyper-judicial’ characteristic of the Singapore state, the judiciary is still a largely respected institution. Its judgement therefore directly undermined state fatwas and suggested that they can be made legally redundant by simply referring them to the civil court.

In the aftermath, members of the Fatwa Committee issued critical responses to stamp their authority on the subject. In a commentary that was published in a local newspaper following the verdict, a Fatwa Committee member stated that although *nudhriyyah* is not a subject that is widely covered in classical Islamic law textbooks, the interpretative (*ijtihadī*) characteristic of the instrument does not mean that it should be dismissed.⁴⁸⁹ The same commentary also challenged the judge’s interpretation of AMLA and provided justification for state fatwas on *nudhriyyah* by presenting the different opinions among classical Islamic jurists. This last point could be taken as direct response to the court judgement, as the judge had said:

...[A]t best, [among the classical scholars] not all but a few hold the view that a vow in favour of some children over others may be valid in some exceptional circumstances such as necessity and want of support. Furthermore...there are strong differences amongst the scholars...There is no indication...that scholars have an agreed position to give validity to the vow. There is clearly an absence of consensus or Ijmaa [on the matter].⁴⁹⁰

In a separate commentary, another member of the Fatwa Committee commented that while the judge’s decision stands, it concerns only this specific case and that Muslims should still follow the state fatwa on *nudhriyyah*.⁴⁹¹ Clearly the Fatwa Committee was determined on making its position well-known among the Muslim community.

Yet the court ruling also resulted in several changes in the fatwa-making process. In 2005, one year after the *nudhriyyah* case, a former civil court judge was made a member of the Fatwa Committee. The reason given was this would ensure that state fatwas are “more appropriate to AMLA.”⁴⁹² Subsequent fatwas on *nudhriyyah* only

⁴⁸⁹ Mohd Murat Md Aris, ‘Amalan Nuzriah’, *Berita Harian*, 24 October 2004.

⁴⁹⁰ *Mohamed Ismail* paragraph 45.

⁴⁹¹ Hasbi Hassan, ‘Keputusan Mahkamah Tidak Jejas Kewibawaan Mufti’, *Berita Harian*, 7 November 2004.

⁴⁹² ‘Mesyuarat Jawatankuasa Fatwa [Fatwa Committee Meeting]’ (Majlis Ugama Islam Singapura, 15 February 2005).

advised on the contract's literal written expression, and not its legal validity. They also included explicit caveats that *nudhriyyah* is only recognised within the Shafi'i school of thought, and that the fatwa should be taken separately from the high court decision.⁴⁹³

In 2007, the Fatwa Committee issued a religious guidance called *irshād* (alt. *irsyad*) on *nudhriyyah*. An *irshād*, bearing similarity to a fatwa, is simply described as a "religious guidance".⁴⁹⁴ More technically, an *irshād* is a "provisional answer" picked from the existing corpus, i.e. without having to come up with a unique religious ruling, while state fatwas address "complicated issue which would require at times novel Islamic rulings and are based on very extensive and in-depth research".⁴⁹⁵ The exact differences between the two is debatable, as it would be hard to imagine that the rigour exercised in issuing a fatwa is absent from the process of issuing an *irshād*, or that fatwas are simply distinguished by whether a topic has been previously addressed in Islamic literature. But what is clear is that as an official religious instruction, an *irshād* does not reach the rank of a state fatwa.

The 2007 *irshād* began by defining *nudhriyyah* as a vow "made by someone to give part or all of his wealth before his death to another party."⁴⁹⁶ It then explained the religious justifications and conditions for the contract and outlined how *nudhriyyah* should be exercised. The *irshād* also stated that in order "to strengthen the... [*nudhriyyah*] legally", one can engage a lawyer or make a Statutory Declaration. The *irshād* also contained a reminder common in previous decrees on *nudhriyyah*, that the contract cannot be drawn up out of spite to omit certain heirs from the estate. It then provided a sample *nudhriyyah* contract. (See Figure 5)

⁴⁹³ 'Mesyuarat Jawatankuasa Fatwa [Fatwa Committee Meeting]'.

⁴⁹⁴ Office of the Mufti, 'Irsyad', MUIS: Majlis Ugama Islam Singapura, accessed 3 October 2017, <https://www.muis.gov.sg/officeofthemufti/Irsyad/index.html>.

⁴⁹⁵ Musa Furber, 'Irshad and Fatwa: Clarifying What Is Meant by Singapore's MUIS', Musa's Muftic Musings, 17 May 2014, <http://musafurber.com/2014/05/17/irshad-and-fatwa/>.

⁴⁹⁶ Office of the Mufti, 'Irsyad: Nuzriah in Islam', MUIS: Majlis Ugama Islam Singapura, accessed 3 October 2017, <https://www.muis.gov.sg/officeofthemufti/Irsyad/nuzriah-eng.html>.

- SAMPLE -

NAZAR STATEMENT

Bismillaahir Rahmaanir Rahiim

All praise to Allah, Lord of the worlds. Peace and greetings to His Messenger Prophet Muhammad and to all his family members and his companions.

I _____ holder of I/C number _____
 _____, living at the address _____

in sound health and mind and have all the rights to my house which I own, hereby make my nazar to relinquish all ownership of the house and give it to the person that is mentioned in this nazar without any obligations.

With this, I make my nazar to transfer fully the ownership of my house at the address _____
 _____ to my _____
 holder of I/C number _____ who currently stays at _____
 _____, and that this transfer is enforceable 3 days before my death (if it is due to sickness), or 1 hour before my death (if it is due to accident or sudden death).

I made this nazar according to the rules and conditions set by Islamic Law and witnessed by the following people. And Allah is the best witness.

Date: _____ Signature: _____

First Witness _____ Second Witness _____

Name: _____ Name: _____

I/C No: _____ I/C No: _____

Figure 5 A sample contract included in the 2007 nudhriyyah irshād

The content of the *irshād* supported the earlier position of the state fatwa, similar to what was issued following the court verdict: that *nudhriyyah* is still a valid religious instrument despite the court ruling otherwise. By issuing the *irshād* the validity of *nudhriyyah* is not only reiterated, but the position of the state fatwa is also officially reasserted.

Issuing an *irshād* instead of a fatwa also provided a way to preserve state fatwas from contestation. If a state fatwa is contested by other entities, especially the judiciary, it chips away at the fatwa's authority. However as an *irshād* does not reach the level of a fatwa, it provides an extra degree of separation. After all, a lesser, 'provisional' opinion that is exposed to criticism is not the same as criticism directed against an

established position. Therefore an *irshād* provides an alternative to fatwas, and the associated caveat – it being a mere recommendation and not a proper fatwa – insulates state fatwas from dispute.

Despite the *irshād* insisting on the validity of *nudhriyyah*, the case jolted the Fatwa Committee to be more aware of the differences between its decisions and secular law. The *irshād* provided a way for the Fatwas Committee to persist on religious decisions which contradict civil law without having to deal with their direct consequences.

3.2 Joint Tenancy

Joint-tenancy contract is also known as joint property ownership where two parties become equal owners of a single property. According to Singapore civil law, the right of survivorship applies upon the death of a joint owner. So when a joint owner dies, the other joint owner will automatically inherit the deceased's share, whether or not a will was made.⁴⁹⁷

The Fatwa Committee did not readily accept the right of survivorship as a recognised religious practice. Earlier state fatwas instructed that the surviving joint owner will only be getting his own half of the property, while the deceased's share is given out to the respective heirs.⁴⁹⁸ This means that the share of the surviving owner is fixed at only 50% of the property. The other half of the estate is distributed to the deceased's heir according to *farā'id*. However this changed in April 2008 when the state fatwa decreed that the surviving joint owner is allowed to inherit all of the property as an alternative to *farā'id*.⁴⁹⁹ Interestingly one year after this fatwa amendment, the court overruled the old fatwa.⁵⁰⁰

The issue of joint tenancy played out in court in *Shafeeg bin Salim Talib and Anor v Fatimah bte Abud bin Talib and Ors* (henceforth *Shafeeg*). The case concerned the property of an Obeidillah bin Salim bin Talib who passed away in 2005. He was a Muslim of Yemeni Arabic descent (his ethnicity being relevant to the court judgement). He left behind a wife – the joint tenant of the property – and two adult

⁴⁹⁷ 'Manner of Holding'.

⁴⁹⁸ *Kumpulan Fatwa*, vol. 3 (Singapore: Majlis Ugama Islam Singapura, 1998), 38.

⁴⁹⁹ Office of the Mufti, 'Fatwa on Joint Tenancy (2008)' (Majlis Ugama Islam Singapura, 2008), <http://www.muis.gov.sg/cms/oomweb/fatwa.aspx?id=14386>.

⁵⁰⁰ *Shafeeg bin Salim Talib and Another v Fatimah bte Abud bin Talib and Others*, 2009, para. 68. Hooker questioned whether the originating summon for this case in 2007 led to the updated joint-tenancy fatwa a year later. MB Hooker, 'Succession to Muslim Estates in Singapore: Sources of Law and Choice of Law', *Australian Journal of Asian Law*, 15.2 (2014), 1–34 (p. 28).

children. According to the inheritance certificate issued by the Syariah Court – and in accordance with the old fatwa – half of this property was to be given to the wife by virtue of matrimonial property,⁵⁰¹ while the remainder was to be given to the deceased’s relatives in accordance with *farāid*. As only Muslims are included under *farāid*, his children were excluded because they had renounced Islam. The wife, who was the joint owner, instead claimed all of the property for herself under the right of survivorship, and then gave parts of it to her two children.

This case was brought to the court by the relatives who were deprived of their share due to the wife’s claim. They argued that the deceased’s half-share should be distributed according to *farāid* and obtained a state fatwa to support their proposition. The court document outlined the significance of the case: (emphasis mine)

It is not in dispute that in a joint tenancy, upon the death of one joint tenant, his interest passes to the other joint tenants. The deceased’s interest cannot pass by will or intestacy and therefore it does not form part of his estate. In the present case, if the deceased and first defendant [i.e. the wife] were non-Muslims, there would not be any dispute that the deceased’s interest in the Property had passed to the first defendant upon his death. *The question is*

⁵⁰¹ According to the Fatwa Committee, the half she received was due to the property being matrimonial property (*harta sepencarian*), but the first defendant claimed it under joint-tenancy right. Para. 18 of the judgement said: “The plaintiffs’ position is that it does and they rely on the Majlis ruling that “the [Property] is considered as a matrimonial property (*harta sepencarian*) as the deceased and his wife had jointly owned it. Therefore, half of the [Property] is considered as inheritance and should be distributed according to Islamic Inheritance law [i.e. *farāid*]”. However this ruling does not pertain to a determination of the distribution of the estate of a Muslim person which is what section 112(1) provides for. The ruling purports to determine that half the Property belongs to the Estate. The question is whether, in relation to the Property which, during the deceased’s lifetime, was held by him as joint tenant with the first defendant, section 112 (or any other provision in AMLA or any other written law) has altered the common law right of survivorship.”

Also in para. 65 of the appeal judgement: “A *fatwa* obtained by a private party for the purpose of court proceedings will not ordinarily have the same standing as a *fatwa* obtained by the court for various reasons. First, there is a likelihood that the party may frame a question based on assumed or hypothetical facts. The 2007 *Fatwa* given in the present case is a good example. The question... was misleading because it assumed the very question to be decided, *ie*, whether there was any half share in the Property that was still vested in the Deceased which could pass to the Estate. The 2007 *Fatwa* was given on that assumption, and it went further to provide a question which the Appellants had not asked, *ie*, whether the Property was *harta sepencarian*. The 2007 *Fatwa* ruled that the Property “is considered as a matrimonial property as the deceased and his wife had jointly owned it”, which is irrelevant as it had not been established that the Deceased was a Malay for the purposes of section 112(3) of AMLA. Furthermore, the 2007 *Fatwa* might also be inconsistent with the power of the court under section 112(3) of AMLA which provides that it is the (civil) court (and not MUIS) which is empowered to make a division of the *harta sepencarian* in such proportions as the court thinks fit.” See *Shafeeg bin Salim Talib and another v Fatimah bte Abud bin Talib and others* (Court of Appeal 18 March 2010).

*whether the fact that the deceased and first defendant were Muslims changes the law...it would be necessary to consider the position of the AMLA in the law of Singapore.*⁵⁰²

The plaintiffs made two arguments to support their case. First, that the law on joint tenancy should be modified in this case because the deceased is a Muslim. However the judge rejected that, saying there was “no such provision [in written law] and the plaintiffs can only cite section 112(1) of the AMLA.”⁵⁰³ Section 112 stated that for “any Muslim person domiciled in Singapore dying intestate, the estate and effects shall be distributed according to the Muslim law as modified, where applicable, by Malay custom.” But since the deceased was not of Malay ethnicity, the judge deemed this section to be irrelevant to the case.⁵⁰⁴

Secondly, the plaintiffs submitted that state fatwas should be adhered by the court, which instructed that the property should be distributed according to *farāid*. The judge disagreed and mentioned at least two reasons for not doing so. One, that the fatwa was petitioned by the plaintiffs and was thus not directed at the court; and two, the judge felt the case was “not a question of Muslim law.”⁵⁰⁵ Essentially, the court was free of the fatwa’s instruction.

The judge also cited an earlier case in 1990 in which a state fatwa was denied by the court. The case pertained to the CPF Act in which the court had rejected *farāid* for a deceased Muslim’s CPF account – contrary to a state fatwa – and ruled that the deceased’s nomination of the account should be upheld.⁵⁰⁶ (This case will be detailed in the next section.)

The most significant remark is reserved near the end of the court judgement, where the judge said:

⁵⁰² *Shafeeg* paragraphs 10–11.

⁵⁰³ *Shafeeg* paragraph 18.

⁵⁰⁴ *Shafeeg* paragraph 16.

⁵⁰⁵ *Shafeeg* paragraph 21.

⁵⁰⁶ In *Saniah bte Ali v Abdullah bin Ali*, the defendant, Saniah bte Ali, had inherited her step-brother’s CPF account following his death; she was earlier named as the sole nominee of the account. This was contested by the deceased’s brother, who produced a certificate of inheritance from the Syariah Court which stated that he was entitled to the estate. The civil court ruled in favour of the defendant. This case is explained in more detail below.

...I am unable to find anything in the AMLA, or any other primary and secondary legislation, which suggests that the common law right of survivorship in a joint tenancy should not apply to Muslims.

This quote underlined the judge's decision against the fatwa: when AMLA comes into conflict with civil law, a restricted reading of the legislation is preferred to reconcile the differences. While section 112 of AMLA clearly stated that Muslim properties are to be distributed according to Islamic inheritance law, the court viewed the civil law on right of survivorship was to be upheld. Though at first glance this might seem to be a controversial decision as it abrogated AMLA, a clearer explanation would be that the court had to interpret the two conflicting statutes – AMLA and the right of survivorship law – as literally as possible to reconcile interpretive differences. As a result, due to AMLA's silence on the right of survivorship, and the civil law's explicitness on it, the only rational outcome for the court was a literal one: to apply the right of survivorship on Muslims, despite the state fatwa saying otherwise.

The case highlighted the reach of the civil court over religious issues, and specifically state fatwas, yet the nuances should not be understated. Firstly, the fatwa would have remained incontestable by the civil courts as long as it was adhered to by the intended recipients. Fatwas are undeniably pertinent in Muslim societies, even Muslim minorities in secular states like Singapore. Fatwas command a degree of compliance from Muslims due to their traditional-societal authority and entrenchment in everyday religious life. But if a fatwa was brought to court, it is then subject to legal conformity. Even though state fatwas are recognised in AMLA, they did not hold up when challenged in the domain of civil law, so much so that the newspaper report for the appeal judgement was headlined “General law will prevail over fatwa,”⁵⁰⁷ which was also a phrase used by the court.⁵⁰⁸

Secondly, this case shows how civil courts interacted with state fatwas and demonstrated the legal limit of their formalised legal-bureaucratic authority. Although state fatwas are non-binding, they “may also have binding effect if accepted as basis for legal judgment by any Court in Singapore including the civil court.”⁵⁰⁹ In the 2009

⁵⁰⁷ KC Vijayan, ‘General Law Will Prevail over Fatwa’, *The Straits Times*, 25 March 2010.

⁵⁰⁸ *Shafeeg* paragraph 69.

⁵⁰⁹ Noor Aisha Abdul Rahman, ‘Muslim Personal Law within the Singapore Legal System: History, Prospects and Challenges’, *Journal of Muslim Minority Affairs* 29, no. 1 (1 March 2009): 112, <https://doi.org/10.1080/13602000902726830>.

high court judgement on the joint-tenancy case, the judge was cautious not to consult fatwas in his judgement because he did not view the case to be a matter of Muslim law. He declared:

The plaintiffs urged me to make a... request [for a state fatwa] under section 32(7). I declined to do so because I am of the view that the issue I have to decide on, *ie*, whether half the Property belongs to the Estate, is not a question of Muslim law and section 32(7) is invoked only where a question of Muslim law falls to be decided.⁵¹⁰

Section 32(7) of AMLA, which the judge was referring to, stated: (emphasis mine)

If in *any* court any question of the Muslim law falls for decision, and such court requests the opinion of the Majlis [i.e. Islamic Council of Singapore] on the question, the question shall be referred to the Legal Committee [i.e. the Fatwa Committee] which shall, for and on behalf and in the name of the Majlis, give its opinion thereon in accordance with the opinion of the majority of its members, and certify such opinion to the requesting court.

The judge's statement reflected his reluctance to petition a fatwa, lest it becomes a basis that might sway the court decision. In the 2010 appeal of the same case, the plaintiffs raised the question of state fatwas' bindingness.⁵¹¹ The Court of Appeal effectively struck it down, and more significantly ordained that the fatwas are not binding to the court. Instead, they hold similar status to that of an expert opinion:

A fatwa is a ruling on a religious issue in Islam given to any Muslim who asks for it. Its authority as advice or precept depends on the moral authority and standing of the religious leader giving the fatwa. But a fatwa issued on an issue of law is a scholarly opinion on what the Islamic law is on that issue. No fatwa is binding on the party seeking it or to whom it is directed, unlike a ruling of a judge on an issue in a case. For this reason, a fatwa stands in the same position as an expert opinion on any matter before the court and may be accepted in evidence on any issue of Muslim law on the same basis as an expert opinion

⁵¹⁰ *Shafeeg* paragraph 21.

⁵¹¹ *Shafeeg Appeal*.

on the civil law. The authority of that opinion must depend on the authority and learning of the person or institution giving the fatwa.⁵¹²

Evident in the statement above, the Court of Appeal ruled that the state fatwa is only as valid as the “moral authority and standing” of the fatwa issuer in court. Not only that, the judgement also clarified the legal authority of state fatwas in the court; the court is not obliged to consult them, and even if it does the fatwa itself is not binding. The judgement said:

Section 32(7) of the AMLA merely provides that the Legal Committee shall give an opinion on an issue of Muslim law if requested by the court. It does not say that such an opinion is binding on the court if requested by the court.⁵¹³

In April 2008, the fatwa on joint tenancy was amended to be in line with civil law joint-tenancy contracts.⁵¹⁴ It decreed that the surviving joint owner is allowed to inherit all of the property, similar to the concept of the right of survivorship. In technical religious terms, the fatwa invoked the instruments of *nudhriyyah* and *hibah ruqbā* (a conditional form of gift *inter vivos*) as religious justification.

According to the fatwa:

If no other arrangement or agreement has been made between the joint owners of a property, upon the death of one of the joint owners, the surviving joint owner will not have full ownership of the property.

...If, however, other arrangements or agreements have been made between the joint tenants, either through a “hibah ruqba” (ruqba-gift) or a “nuzriah” (vow) which expressly states that the property is to be given wholly to the surviving joint tenant, in the event of death of one of the joint tenants, then the entire property shall vest in the surviving joint tenant. This is consistent with the present laws on joint-tenancy in Singapore.⁵¹⁵

However just like the *irshād* on *nudhriyyah* in the previous section, the amendment of the fatwa signalled the right of survivorship to be an alternative to the established instruments of Islamic inheritance law. This is because this amendment does not in

⁵¹² *Shafeeg Appeal* paragraph 63.

⁵¹³ *Shafeeg Appeal* paragraph 63.

⁵¹⁴ Office of the Mufti, ‘Fatwa on Joint Tenancy (2008)’.

⁵¹⁵ Office of the Mufti.

any way abrogate the initial fatwa that regarded joint owners as eligible for only the half-share of the property. The fatwa amendment also explicitly mentioned that joint survivorship applies only if “arrangements or agreements have been made between the joint-tenants,” indicating that the default position is still the original fatwa. This is further qualified by the customary caveat in inheritance fatwas, warning against vindictiveness in exercising the ‘right of survivorship’:

The other heirs of the estate of the deceased cannot, however, compel the surviving joint tenant to sell the property until such time as it is suitable for the surviving joint tenant to sell it. At the same time, the surviving joint tenant cannot delay the sale of the property without reasonable grounds as it may encroach on the rights of other beneficiaries.

As such, although the fatwa might have been amended to be more congruent with civil law, it is clear that the original fatwa still represents the principle position of the Fatwa Committee.

3.3 CPF Nomination

As mentioned above, the Fatwa Committee validated the right of survivorship in joint-tenancy contracts through various Islamic legal instruments in 2008. In 2010, another inheritance fatwa was issued, this time on the compulsory savings and retirement account known as CPF. The fatwa allowed CPF account owners to nominate another person to inherit the money by recognising it as a religiously accepted instrument called *hibah* (gift *inter vivos*).

In civil law, the CPF Act mandates that a CPF account holder is allowed to nominate one person who will inherit the money in the account at the account holder’s demise. However this nomination was not immediately recognised in state fatwas. In a 1971 fatwa, a CPF nominee is considered a trustee and not a beneficiary.⁵¹⁶ He or she will not inherit the money in the account as it will be distributed according to the traditional Islamic inheritance law, the *farāid*. However in August 2010, the fatwa was amended to recognise the nomination as a valid financial instrument in Shariah by invoking *hibah*.⁵¹⁷ The nominee, as such, will receive the money in the CPF account upon the

⁵¹⁶ ‘Mesyuarat Jawatankuasa Fatwa [Fatwa Committee Meeting]’, 30 October 1971.

⁵¹⁷ Office of the Mufti, ‘CPF Nomination’, MUIS: Majlis Ugama Islam Singapura, August 2010, <https://www.muis.gov.sg/officeofthemufti/Fatwa/cpf-nomination.html>.

death of the account holder. Since the nomination is not religiously recognised as *farāid* nor a Muslim will, the religious acknowledgement came in the form of *hibah*. This means that the state fatwa agrees with the legal status of the CPF. Yet the new ruling merely provides an alternative to the account holder because *farāid* execution for CPF account is not totally abrogated by the fatwa. Rather, the new decree provides a choice for the account holder on how his wealth is distributed. So should the account holder decides to give away all his CPF money to the nominee, he has the option to do so through *hibah*. But the initial position that regarded the nominee as a trustee (and not beneficiary) still remains.

The case that embodied this issue is *Saniah bte Ali and others v. Abdullah bin Ali* (henceforth *Saniah*), which played out in Singapore High Court in 1990. The case concerns Saleh bin Ali, a Muslim who died intestate. He had named his step-sister Saniah bte Ali – the plaintiff – as the nominee for his CPF account. According to the CPF Act, as the nominee Saniah would be the sole beneficiary of the account. However as the sole beneficiary, this would deprive the other heirs of the money in the account. The case was brought to court when the deceased’s brother Abdullah bin Ali – the defendant – argued that Saniah should act as a trustee, in line with the 1971 fatwa. A variation of this fatwa was reproduced in a fatwa booklet which was used to support the defendant’s claim to the estate.

The fatwa reads:

According to the Islamic Law, a deceased’s Central Provident Fund [CPF] money constitutes part of his estate and thus must be divided amongst his beneficiaries and in accordance to the Islamic inheritance law. The person nominated by the member of the Central Provident Fund shall act only in the capacity of a “representative” [or trustee]. The nominee will not be entitled to anything unless he/she is one of the beneficiaries of the deceased’s estate as stipulated by the [Islamic] law of inheritance [i.e. *farāid*].⁵¹⁸

This fatwa was however rejected by the presiding judge, who said:

In my opinion, the fatwa is merely an opinion... and is not binding on this court which has full jurisdiction to decide on the matter in issue. What is before

⁵¹⁸ *Saniah bte Ali and others v. Abdullah bin Ali* (High Court 8 June 1990).

me is not really a point of Muslim law... Though the parties in dispute are two Muslims, and their dispute is on the moneys paid out of the Fund on the death of a member who was a Muslim domiciled in Singapore, the true issue raised before me is which of the two parties is entitled to such moneys under the CPF Act and the AML Act, and not under any Muslim law. and the issue turns on the proper and true construction of sections 23 and 24 of the CPF Act and section 112(1) of the AML Act. For the reasons I have given and on the construction I have placed on sections 23 and 24 of the CPF Act and section 112(1) of the AML Act, I cannot, with respect, accept the fatwa as correct.”⁵¹⁹

In the paragraph above, the judge rejected the bindingness of the fatwa. The defendant had argued that since the CPF Act came into effect in 1957, and AMLA came into effect in 1968, the latter repeals the former in matters concerning Islamic inheritance law. However the judge viewed that the relevant sections in the CPF Act were not “inconsistent with or repugnant to” AMLA.⁵²⁰ Specifically, the judge referred to sections 23 and 24 in the CPF Act which “treated a member’s moneys in the Fund as a species of property distinct and separate from the estate of the member... the moneys payable out of the Fund on the death of a member are specifically excluded from the estate of the deceased, and that being so, the moneys do not form part of the estate of the deceased member and are therefore not subject to section 112(1) of the AML Act.”⁵²¹

There were no immediate changes to the state fatwa following this verdict in 1990. One of the possible reasons for this was the ambiguity of the written civil law that still remained. As such in the decades following *Saniah*, religious questions on the CPF nominations were answered according to the original fatwa and not the court decision, i.e. the CPF nominee is a trustee of the CPF account, and not a recipient. This however changed when the CPF Act underwent several amendments between 2006 and 2010. These changes included explicit mention that if no nomination was made, then the CPF accounts of Muslims have to be distributed according to the Islamic intestate law in AMLA, i.e. *farāid*. But if a nomination was made, and that means the CPF Act was invoked, then this would be prioritised over AMLA. As the changes gave precedence

⁵¹⁹ *Saniah* paragraph 17.

⁵²⁰ *Saniah* paragraph 14.

⁵²¹ *Saniah* paragraph 14.

to the CPF nomination over Islamic law, the amendment prevents CPF nomination from devolving into intestate property.⁵²²

The amended state fatwa in 2010 considered this revised legislation and essentially gave a religious nod to the new law by applying the religious concept of *hibah*. In one stroke, CPF nomination was now a religiously accepted instrument. However this comes with a caveat seen also in similar fatwa amendments that circumvented the *farāid*:

“...CPF contributors must be aware that a nomination cannot be made with the intention and purpose of unfairly denying the rights of the other beneficiaries.”

The Fatwa Committee – with its knowledge of state mechanisms – was aware of the legal ambiguity of its fatwa and thus resisted any changes to it. But once this ambiguity was removed, the state fatwa had to be reconsidered by providing additional options so that it does not run afoul of the law. Yet even as the fatwa changed, it remained the same by insisting on the *farāid* over the new position, similar to previous examples cited in this chapter.

4 State Fatwas in Civil Law

4.1 Interpreting Legal Authority

The episodes above demonstrated the limits of state fatwa’s legal authority. The legal recognition of fatwas through AMLA made them directly relevant to aspects of religious administration as well as the practice of Islamic family law. As Islamic family law interacts with other related legislations – such as civil inheritance law, the CPF Act and the joint-tenancy contract – state fatwas not only became a reference point for religious edicts that satisfy Muslim demands, but more importantly they inform how Islamic law is practised in the secular legal framework. In turn this allowed state fatwas to become a mode of negotiation with other key state appendages, not least the judiciary.

Yet these negotiations are not merely a result of the fatwa provision in state legislation. The circumstances surrounding each event also deserve scrutiny. Even in authoritarian Singapore, written law remains a platform of contestation due to its inherent

⁵²² Also relevant to note here are the criticisms against the amended legislation. See Barry C Crown, ‘Death and the Central Provident Fund: Legislative Intervention: Central Provident Fund (Amendment) Act 2006, Section 12’, *Singapore Journal of Legal Studies*, 2007, 145–46.

ambiguities. As cases overlap between the demands of Islamic and civil laws, these ambiguities also culminate. State fatwas as legally-recognised religious instructions define and interpret the finer details of Islamic law in Singapore. The complications arose when the civil court disagreed with these interpretations, and vice versa.

The civil court took a restricted interpretation of AMLA as it attempted to minimise legal conflicts between opposing pieces of legislation. The Fatwa Committee meanwhile read AMLA in more expansive light. It is apparent that the Fatwa Committee regarded AMLA as a starting point on how religious law should be applied in the state, and thus expanded its interpretation and applicability by introducing various religious instruments – such as *nudhriyyah* – which it argued is rooted in AMLA even though it was not explicitly mentioned there.

The court's restrictive approach could be seen in the resources it cited, the clearest perhaps in the *nudhriyyah* case in *Mohamed Ismail*. The court interpreted Islamic law through a selection of literature listed as authoritative in section 114(1) of AMLA, under the header 'Proofs of Islamic Law'.⁵²³ Several of these books were specifically cited in the 2004 judgement as proof against the validity of *nudhriyyah*.⁵²⁴ Since *nudhriyyah* was not explicitly mentioned in the collection of Islamic law literature above, this was used to justify the court verdict that *nudhriyyah* was an invalid instrument. While the court rested its case on the exact literature mentioned in section 114(1), the Fatwa Committee's choice of literature on Islamic law went beyond that. They relied on a different set of literature as proof, specifically the Yemeni tradition of Islamic law which supports *nudhriyyah*.⁵²⁵ More importantly, they contradicted the expressly stated words in AMLA and challenged the enshrined references mentioned in section 114(1).

The state fatwas said that *nudhriyyah* is a legally valid instrument because it is a derivative of *nadhar*, the latter which is mentioned in AMLA. According to AMLA, *nadhar* is valid with the explicit conditions of not exceeding more than one-third of the property, and not being allocated to heirs who are eligible for *farā'id*. Because the court took a restrictive interpretation of AMLA, it refused to recognise *nudhriyyah*.

⁵²³ The immediate following sub-section also mentioned that: "(2) The Minister may on the advice of the Majlis by notification in the Gazette vary or add to the list of books set out in subsection (1)."

⁵²⁴ *Mohamed Ismail* paragraph 54.

⁵²⁵ Specifically, they relied on treatises such as *Bughyat Al-Mustarshidīn* [The Aspiration of the Seekers of Guidance] and *Sharh Al-Yāqūt Al-Nafīs* [Commentary on the Precious Ruby].

The state fatwas meanwhile interpreted AMLA as a legal platform to realise the demands of Islamic law and not the final word on it. *Nudhriyyah* – seen as an extension of *nadhar* – was therefore a valid inheritance instrument, so much so that it does not even require the two conditions of *nadhar*.

In the joint-tenancy and CPF nomination cases, state fatwas initially rejected the use of certain financial instruments – i.e. right of survivorship and account nomination – as a mode of Islamic inheritance. But this changed as the CPF system started to mature; many decades after it was introduced, the early generations of Singapore citizens who relied on CPF accounts began to pass away. This leads to more awareness on the issues surrounding the CPF account in inheritance, and questions on the validity of the various intestate options were explored. The need to minimise legal complications and ensure the relevance of Islamic law also became more pressing. The relevant state fatwas were amended and allowed these previously-unacknowledged instruments to be used by Muslims. This means that state fatwas have to accommodate civil law instruments.

The initial reluctance to include these modes of inheritance in state fatwas, as well as the subsequent acceptance, reflected the predicament arising from civil court decisions and legal amendments. If state fatwas disregarded the legal consequences, then they would not only be repugnant to civil law, but might also be irrelevant because the civil courts have the ultimate say when presiding over religious matters. But if the fatwas were to simply embrace the court decisions at the expense of traditional religious positions, this would contradict the normative practice in Shariah and also undermine their informal traditional-societal authority particularly as *farā'id* remains the de facto practice among Muslims. As such, these court cases demonstrated the constant push-pull negotiations between these institutions, and how state fatwas fought to remain legally relevant.

A central factor behind these contestations is the interpretation of AMLA. It is safe to say that AMLA was originally designed to operate in harmony with secular law. Yet its interpretation differs between the Fatwa Committee and the civil courts. For the Fatwa Committee, AMLA is an exclusive statute for Muslims which is almost insulated from civil law. For the courts, AMLA is a statute that is subject to the greater secular civil law framework. When in doubt, the Fatwa Committee regards AMLA as

a regulation that can be expanded to fit the wider breadth of Islamic law. The courts however see AMLA a fixed representation of Islamic law that should be reconciled with the written demands of secular law.

4.2 Informal Authority, Soft Law, and Statist Islam

Aside from the established legal-bureaucratic embeddedness of state fatwas in the secular legal framework and their persistent negotiation of authority through informal means, these events also demonstrated the position that state fatwas play through policy feedback. As we have seen in previous events when state fatwas differed from state policies, they relied on their traditional-societal embeddedness to assert their position. Similarly for this chapter, the reliance of state fatwas on traditional-societal authority remained consistent.

What is pertinent to note here is that what caused state fatwas to be brought to court was the initial state policy that regulates religious affairs through AMLA. This turned state fatwas into religious decrees with an official enough position to be taken seriously in the civil court. The observation of Islamic inheritance law, supported by state fatwas, differentiated the inheritance practice for Muslims and created a gap with the secular civil law. Yet over time this gap was bridged by attempts to unify the differences. While this can be regarded as an attempt to minimise the feedback effect of fatwas on civil law, a careful reading of the amended fatwas indicates that they play a reserved role in informing Muslim adherence to civil law. This is because the amended fatwas merely provided an alternative to the initial decrees, rather than changing the fatwas altogether to fit civil law requirements.

Furthermore these cases highlighted novel ways in which religious instructions were asserted. Aside from rejoinders that tackled the court judgements in the newspaper, state fatwas were amended and *irshāds* were issued. Although these religious statements considered the views of the court, they did so by both acknowledging and contradicting the judgements, thereby exemplifying the soft law feature of state fatwas. Bearing in mind the previous chapter in which state fatwas negotiated against state demands, a similar pattern emerged here: when the formal legal-bureaucratic authority of fatwas is in deficit, their informal traditional-societal authority was amplified.

Because the hard law relevance of state fatwas was constrained by the court, they have little room to manoeuvre except by influencing the Muslim community directly. In some cases, Fatwa Committee members issued public rejoinders in the local newspaper. These commentaries not only addressed the court decision, but more importantly the subtext was that the fatwas were correct in the eyes of Shariah, despite the court saying otherwise. Then the relevant state fatwas were also reviewed, either through amendments or issuing fatwa-like statements (i.e. *irshāds*). Although the court decisions were considered in these decrees, it was not to an extent which undermined the original fatwa.

In doing so, state fatwas reveal that they do not necessarily have to adhere to the 'official' court-ruled interpretation of AMLA. Rather state fatwas can assert their unique interpretation and even stick to it when challenged by the court. Therein lies the soft law characteristic of state fatwas. But since soft law is complementary to hard law, and fatwas exhibited contradiction against AMLA, then what is the hard law reference of Singapore state fatwas? The answer can be found in the sources that fatwas used to justify their position. These cases showed that state fatwas do not necessarily rely on court-approved books and tomes, or even established ones in classical Islamic tradition. Instead, as I pointed out earlier, they referred to a unique set of references that is derived from the Yemeni Muslim legal tradition. This means that state fatwas are shaped by their unique legal history and heritage, and for the case of Singapore it is distinct enough even from its closest neighbour Malaysia. It shows that in inheritance law, the hard law reference of Singapore state fatwas is not the legal statute AMLA, nor a generic form of Islamic law, and not even that of a major school of thought. Rather the hard law reference of Singapore state fatwas is unique and rooted in the development of a particular Islamic legal tradition derived from the primary Islamic sources, and this holds true for state fatwas of many countries too.

This summarises the role of state fatwas in defining the legal position of religious praxis in the state and shaping Statist Islam. In courts, state fatwas function to negotiate the legal boundaries of religious praxis. Even as legal proceedings led to their amendments, state fatwas were still able to temper the directives of civil law by providing options within the fatwa itself. Those who want to adhere to civil law were not admonished, just as those who choose the preferred traditional position were given sufficient instruction to minimise contradiction with civil law.

5 Conclusion

This chapter has examined how state fatwas prevailed even when they were being legally challenged. The fatwas under consideration within this chapter effectively intersect between religious tradition and secular legislation. By being a nodal point between Islamic law and civil law, state fatwas gained the privilege of informing how exactly Islamic law applies in Singapore's secular legal framework.

Following from the bureaucratic authority of state fatwas discussed in the previous chapter, this chapter investigated their legal authority. Both of these legal and bureaucratic links formalised the authority of state fatwas by connecting them to the greater structural relevance of the secular state. This chapter argued that as AMLA made fatwas legally relevant, this legal recognition can be affected by court rulings. As a contingency, state fatwas can assert informal traditional-societal authority directly on the Muslim community, something that operates beyond the court's reach. This is significant because it allows state fatwas (or other fatwa-like statements) to challenge court judgements.

With regards to the wider argument developed in this thesis, these episodes reflect the legal extent of fatwas' policy feedback, as well as the shaping of Statist Islam through informal soft law. I have shown that even as AMLA was endorsed as the hard law instrument that justified religious rulings, state fatwas also contested (or at the very least expanded) the explicit expressions of AMLA. This is because the form of hard law that Singapore state fatwas are based on is not AMLA, rather a unique form of Islamic legal tradition that differs even from the neighbouring countries (with whom religious heritage is very similar). This unique religious legal tradition manifests through state fatwas which promotes a distinctive form of Islamic praxis in the country, and expressed in Statist Islam.

I presented three court cases where state fatwas were challenged in the civil court. In each of these cases, the court judgement went against the fatwa. Because this challenged the formalised legal authority of state fatwas, they relied on informal linkages in order to exert their relevance. Almost similar to previous patterns, the newspaper became a platform to challenge court decisions. In addition to that, religious decrees were also issued as *irshāds* and not fatwas, thereby creating additional vehicles for religious instructions to be disseminated. By not calling these

decrees fatwas, the *irshād* provided an alternative platform for the Fatwa Committee to rule on controversial issues, which then shifted attention away from actual fatwas and shielded them from criticism.

As the fatwas' impact in court were deemed non-binding, they had to be amended to take into account the court decisions in order to retain relevance to secular-legal precedents. Yet these amendments upheld the position of original fatwas, and at the same time introduced alternative practices in the updated religious decrees, thereby 'harmonising' the religious-secular differences.

In a statement addressing the difference between secular inheritance law and Islamic inheritance law, the Minister-in-Charge of Muslim Affairs noted: (emphasis mine)

“The guiding principles to deal with these [legal] issues are clear. First, the Fatwa Committee will continue to develop fatwas that are beneficial to the community... Second, the fatwas will try to minimize any gaps or perceived contradictions between civil and Muslim law. Third, the Fatwa Committee will continue to adopt a progressive approach when deliberating on fatwas, keeping abreast of the latest developments in both Islamic and civil laws... The Fatwa Committee will also learn from other legal systems on how *harmonization* is being carried out...”⁵²⁶

This 'harmonisation' is not a clear-cut case that prioritises a set of law over the other. Instead, as argued in this chapter, despite attempts to ensure that parallel sets of law do not contradict each other, state fatwas can still rely on their soft law application to circumvent hard law court judgements. Therefore attempts at 'harmonisation' do not necessarily end up in consonance; the air of dissonance is still heard. Secular law might have prevailed over state fatwas in court, but as I have argued the fatwas' traditional religious positions still persist over court judgements. As a result, the legal restrictions reflect a way in which Statist Islam is shaped in Singapore, one which constantly requires the re-shaping of religious demands not only through state policies, but also legal judgements.

⁵²⁶ 'Speech by Dr Yaacob Ibrahim, Minister for the Environment And Water Resources, at the Seminar for Wills, Inheritance and Estate Planning', National Archives of Singapore, 15 July 2009, <http://www.nas.gov.sg/archivesonline/speeches/view-html?filename=20090722002.htm>.

Indeed the fast-changing world presents constant challenges to traditional religious interests. These challenges originate not only from local actors but also those abroad, thanks to the ubiquity of the internet and social media. In the next chapter, we shall see how the informal authority of state fatwas are formalised in order to regulate ‘foreign’ religious thoughts.

Chapter 6: Managing Internet Fatwas: Formalising Informal Authority

1 Introduction

I have illustrated how state fatwas negotiate state policies and court judgements. When included in the policymaking process, state fatwas became the reason for religious exemption in a national state policy. But when they were not formally consulted, state fatwas relied on informal traditional-societal authority to challenge state decisions. I have also shown how state fatwas became entangled in civil court cases. In all these examples, while leveraging on formalised legal-bureaucratic authority to engage the political and legal bodies, state fatwas maintained a distinct engagement with the Muslim community through their traditional-societal religious authority. This displayed how they operate at several levels of segregation with various segments of their audience in order to effectively assert the suitable form of authority.

In this chapter, I will investigate the contestation of state fatwas' traditional-societal authority which leads to the strengthening of their legal-bureaucratic authority. The contestations to be examined in this chapter originate from the Muslim society itself. It is here that I will scrutinise how the internet opened up various channels that allowed various segments of the Muslim society, both domestic and overseas, to engage with and challenge state fatwas. Consequently as the state (and religious bureaucracy) attempted to fend off overseas decrees and fatwas that call for violent extremism, the position of state fatwas were reinforced to preserve the local brand of religious praxis. I argue that these measures not only demonstrated the extensive reach of state fatwas to legitimise local norms and discredit foreign ones, but also forced their acceptance among religious teachers by formalising their relationship with them. Doing so involves the policing of religious classes throughout the country by expanding the legal role of state fatwas (and religion).

If earlier chapters argued that state fatwas circumvented state policies and legal decisions by relying on their *informal* religious authority, this chapter will demonstrate the contrary: how *formal* bureaucratic and legal control is exploited to expand fatwas' religious authority. I will look at the various measures imposed by the religious bureaucracy to discredit foreign radical fatwas.

The centralisation of fatwa issuance created a single avenue for religious queries and enabled a single body of religious experts – the Fatwa Committee – to issue official religious instructions. State fatwas consequently became a highly sought-after form of religious instruction and the main reference point for religious queries in Singapore. Yet the growth of internet use in recent times created new challenges for state fatwas. Unfettered online access enabled the exchange of information, including religious questions and answers. Various fatwa issuers became adept at using the internet to spread religious views to new audiences across new borders. Among these new actors are radical groups that call for religious extremism and violence. Concerns over national security compels the state to ensure that the significance of state fatwas is protected.

The secular state can become a target for religious extremists due to the very nature of its political system. State fatwas can however deter such justifications by providing religious rebuttals, but more importantly their bureaucratic link represents a tacit legitimising symbol for the secular state. This link implies tolerance, if not co-operation, between the sacred and secular, and blurs the binary narrative of secular-religious conflict. Another common justification for terror attacks against the state is its military collaboration – the so-called “crusader coalition” – with the US.⁵²⁷ This is one the reasons why Singapore – a non-Muslim secular state in a Muslim-majority area – has been described as an “iconic target” for terrorists.⁵²⁸

Measures were taken to deter such attacks from home-grown radicalised individuals. This includes directly and indirectly bolstering the authority of state fatwas through weekly Friday sermons that discredit extremist ideas, as well as creating a new accreditation system for religious teachers which makes it compulsory for local religious teachings to be in line with state fatwas. This marks one of the most significant development in the formalisation of religious authority in recent times; it formalises fatwas’ informal relationship to religious teachers by mandating their adherence. This also demonstrates the extent of feedback effect that entrenches the legal authority of state fatwas, and empowers them to directly and authoritatively inform Statist Islam.

⁵²⁷ Bilveer Singh, ‘Why Singapore Is a Terrorist Target’, *The Diplomat*, 28 June 2017, <https://thediplomat.com/2017/06/why-singapore-is-a-terrorist-target/>.

⁵²⁸ Singh.

After this opening statement, my argument will be structured as follows: the next part will provide a brief conceptual discussion of religious authority and the internet. The following section will then illustrate how mass media have changed the landscape of religious authority, and the ways various religious elites have attempted to curb the intrusion of new religious influences that pose a challenge to them. I will then examine the dissemination of radical fatwas and scrutinise the measures taken in Singapore to reject them, which ultimately reinforced the authority of state fatwas. The two measures I focus on are Friday sermons and a new law that regulates Islamic religious teachers called the Asatizah Recognition Scheme (ARS). The final part will conclude with the assessment that these measures underline the unprecedented function of state fatwas in regulating religious knowledge in a secular state.

2 Religious Authority and the Internet

The internet has facilitated the spread of a wide range of opinions as well as diverse views on almost any issue. As a result, anyone can easily justify their religious position simply by searching and citing online content, a phenomenon known as fatwa-shopping.⁵²⁹ The vast majority of fatwa-shopping concerns religious rituals or theological debates, and therefore lies outside the interest of the state. However since online fatwas and decrees come from many sources and address many topics, fatwa-shopping can also provide an opportunity to justify political opposition, or even worse acts of violence. This free flow of information could therefore pose security concerns, especially for an authoritarian state which normally regulates potential platforms of contestation.

As such there has been no lack of attempt by the state to regulate internet content, even if it is extremely difficult, if not impossible. In China for example, certain search providers and social media websites are blocked and users are channelled to local state-sanctioned alternatives. Meanwhile Turkey is known to periodically block social media sites and even messaging applications especially during times of political uncertainty. Many countries are also known to block access to pornographic websites.⁵³⁰ Yet despite these restrictions, internet users have found ways to access

⁵²⁹ Hosen, 'Online Fatwa in Indonesia: From Fatwa Shopping to Googling a Kiai'; Zaman, 'From Imam to Cyber-Mufti'.

⁵³⁰ 'Internet Censorship Listed: How Does Each Country Compare?', *The Guardian*, 16 April 2012, <http://www.theguardian.com/technology/datablog/2012/apr/16/internet-censorship-country-list>.

blocked information, typically by rerouting access via internet proxies, or encrypting their virtual presence using special programmes and applications. It is therefore almost impractical to restrict access to specific internet content.

As the internet becomes a convenient platform to share and spread ideas, it also results in the flourishing of religious opinions and influences online. The internet has undeniably facilitated a more ‘democratic’ process that engages with those in power, including religious authorities.⁵³¹ These engagements can morph into contestations that threaten existing structures of authority, as the introduction chapter of this thesis demonstrated when the Singaporean extremist, through a video spread via the internet, threatened Western targets and called Muslims to join the radical cause. Exploiting the media to contest power is however not new. The free flow of information has always created new challenges against the traditional assumptions of religious authorities. The introduction of new forms of media over the ages – print publication, radio and television broadcast, and the internet – threatened the role of traditional figures of religious scholarship, the ulama, who found that they no longer possess the exclusive claim to religious interpretation. For example, Sufism – credited with the spread of Islam in Southeast Asia – has long been the predominant authority presiding in local religious institutions.⁵³² At the rise of politico-religious contestations in the early 20th century, those who wanted to challenge the dominance of these state-affiliated religious elites utilised new channels of media, notably print publication, to disseminate their ideas in the Malay world.

A key reason for the establishment of a centralised fatwa body in Singapore was to enable local religious elites to issue their own religious decrees for local consumption, rather than having Muslims obtain fatwas from abroad.⁵³³ Today, the ubiquity of the internet allows almost anyone to access alternative fatwas that challenge state fatwas. While the rise of print and mass media was viewed with great suspicion by religious

⁵³¹ Bryan S. Turner, ‘Religious Authority and the New Media’, *Theory, Culture & Society* 24, no. 2 (March 2007): 127, <https://doi.org/10.1177/0263276407075001>; Shaheen Sardar Ali, *Modern Challenges to Islamic Law*, Law in Context (Cambridge, United Kingdom: Cambridge University Press, 2016), 233–61; Mia Consalvo and Charles Ess, eds., *The Handbook of Internet Studies*, Handbooks in Communication and Media (Malden, MA: Wiley-Blackwell, 2011).

⁵³² Anthony C Milner, ‘Islam and the Muslim State’, *Islam in Southeast Asia*, 1988, 23–49; Milner, ‘Islam and Malay Kingship’; William Roff, ‘Islam Obscured? Some Reflections on Studies of Islam & Society in Southeast Asia’, *Archipel* 29, no. 1 (1985): 7–34; Anthony H Johns, ‘The Role of Sufism in the Spread of Islam to Malaya and Indonesia’, *Journal of the Pakistan Historical Society* 9, no. 3 (1961): 143.

⁵³³ See Chapter 3.

elites and fatwa issuers (as I shall explain later), the so-called new media – the internet – has given rise to even more complications, especially as it reaches unprecedented levels of penetration and interactivity between content producers and consumers.

This is further complicated by the fact that Sunni Islamic religious authority has no centralised system on the global scale akin to the papacy. In the current nation-state system, the closest that a religious institution can get to a centralised system is by aligning themselves to political authority such as the government of a state or country, which typically results in its embeddedness in a complex legal-bureaucratic network. Whether political authorities subsume these religious institutions, or allow it to operate with democratic features, the existence of an Islamic religious bureaucracy is largely contingent on political authority. By being situated between the state that it advises and the society that it instructs, the bureaucratised religious institution becomes a conduit for religious consultation and societal instruction.

The religious bureaucracy also overlaps with political and legal authority, and presents itself as what Mandaville has termed the “centre-periphery” of religious authority.⁵³⁴ Mandaville refers to centre-periphery to depict the hybridity occurring within Islam between the centre of Islamic knowledge in the Middle East and the peripheral Islamic societies located elsewhere. However the term centre-periphery here is borrowed to mean the relationship between the centre of Islamic religious authority today – which is the religious bureaucracy including the fatwa institution – and the Muslim society at its periphery. While the religious bureaucracy has arguably been the ‘centre’ of religious authority which instructs the ‘peripheral’ Muslim society, this dichotomy is not exempt from the geographical *and* institutional reconfiguration brought about by the internet, which expands the role of ‘peripheral’ actors across new societies and borders, creates new arenas of contestation, and challenges the ‘central’ authority of traditional religious institutions.

In general, studies on religion and the internet have examined the engagement of various religious communities online, the effects on identity construction, and the

⁵³⁴ Peter Mandaville, ‘Digital Islam: Changing the Boundaries of Religious Knowledge?’, *ISIM Newsletter* 2 (1999): 1; Peter Mandaville, *Transnational Muslim Politics: Reimagining the Umma* (Routledge, 2003), 166.

changing boundaries of a ‘community’.⁵³⁵ These were largely based on a binary assumption of the outcome: that these processes lead to either a desirable utopian result that creates a democratic and civil engagement between various religious interpretations, or a dystopian consequence that deepens cleavages between groups and incites hostility.⁵³⁶ Literature concerning Islamic religious authority on the internet has not escaped this postulation as well, as I shall explain below.

The abundance of online religious opinions and fatwas has levelled the playing field and facilitated fatwa-shopping, in which a religious position could simply be justified by choosing from a wide range of online fatwas. There is no shortage of religious (or pseudo-religious) opinions which justify traditionally forbidden acts in the Islamic belief, such as consuming intoxicants or even engaging in militant activities, all which can be found online without much effort. The rise of these religious opinions signals the ‘decentralisation’ of Islamic religious authority, which, Bund cautions should be seen “in conjunction with shifting frameworks associated with religious authority, including concepts associated with decentralization from the traditional locations of ‘ulama’ power.”⁵³⁷ The internet therefore affects Islamic religious authority in more ways than one. ‘New’ religious opinions or fatwas do not necessarily have to be overt in challenging traditional religious authority, but could also subtly affect changes that “potentially introduce ‘relativism’ into religious authority.”⁵³⁸ This changes the nature of ‘traditional’ religious authority, and enables a Muslim to determine his or her own degree of adherence to religious norms and practices “without having to abide by the restraints of group participation” in real life.⁵³⁹ In this context, it further leads to the “desacralization” of religious practices,⁵⁴⁰ by selecting elements from practices that were initially observed as a whole. As religion becomes desacralised, religious practices become trivialised in everyday life. As a consequence, this might also push

⁵³⁵ For an overview of this, see: Heidi Campbell, ‘Internet and Religion’, *The Handbook of Internet Studies* 11 (2011): 232–50; Heidi Campbell, ‘Who’s Got the Power? Religious Authority and the Internet’, *Journal of Computer-Mediated Communication* 12, no. 3 (2007): 1043–62.

⁵³⁶ Morten T Højsgaard and Margit Warburg, *Religion and Cyberspace* (Psychology Press, 2005); Douglas E Cowan, *Cyberhenge: Modern Pagans on the Internet* (Routledge, 2004).

⁵³⁷ Gary Bunt, *IMuslims: Rewiring the House of Islam* (Univ of North Carolina Press, 2009), 278.

⁵³⁸ Roxanne D Marcotte, ‘Fatwa Online’, *Political Islam and Global Media: The Boundaries of Religious Identity*, 2016, 239.

⁵³⁹ Mohammed El-Nawawy, *Islam Dot Com: Contemporary Islamic Discourses in Cyberspace* (Springer, 2009), 239.

⁵⁴⁰ El-Nawawy, 63; Cesari, *When Islam and Democracy Meet: Muslims in Europe and in the United States*.

some religious followers who, in order to compensate for what they deem as Muslims' departure from religious tradition, adopt fundamentalist interpretations. As Turner claims, these online contestations could also create an "inflationary expansion of claims to purity and strictness that has a compulsory upward trajectory", and as a result "push Islam towards a fundamentalist view of law that is incompatible with customary arrangements and prescriptions."⁵⁴¹

Be the outcome utopian or dystopian, what underlines both these sets of claims is one thing: the significance of religious authority. The proliferation of online fatwas led some observers to describe the phenomenon as a "crisis of authority" on the internet,⁵⁴² in which multiple fatwa issuers – despite disparity between their training and qualification – vie for religious authority in a chaotic domain. As Muslims attempt to reproduce and recontextualise familiar settings "in locations far remote from those in which they were originally embedded," this would result in a "new form of imagined community, or a reimagined umma".⁵⁴³

The literature above has discussed the rise of online fatwas, the fatwa-shopping phenomenon, and their ramification on the Muslim identity. In this chapter, however, I am going to risk a less speculative assumption by taking the argument back to how state-linked religious institutions attempt to wrest back religious authority from these 'new' actors in an unfamiliar domain. While it might be true that old and new media have produced the "systematization of Islamic thought...outside the traditional sources of authority",⁵⁴⁴ this chapter argues that traditional structures of authority still persist through various formalised and informal means. One way these traditional sources or structures preserve their authority is by creating narratives that dismiss these 'new' fatwas. This is done by emphasising state fatwas' legal-bureaucratic authority and employing hard law measures which guarantee adherence through legal coercion.

⁵⁴¹ Turner, 'Religious Authority and the New Media', 132.

⁵⁴² El-Nawawy, *Islam Dot Com: Contemporary Islamic Discourses in Cyberspace*, 73; Dawson and Cowan, *Religion Online: Finding Faith on the Internet*, 2.

⁵⁴³ Mandaville, 'Digital Islam: Changing the Boundaries of Religious Knowledge?', 1.

⁵⁴⁴ Turner, 'Religious Authority and the New Media', 132.

3 Managing Religious Authority in the Media

3.1 Print Media

I will now trace the development of mass media with particular reference to Islamic religious elites. As fatwas are religious instructions communicated to the masses, they are also picked up by newspapers, radio and television programmes, and the internet. These media platforms help to disseminate fatwas but they also act as a double-edged sword; as they facilitate fatwas' dissemination, they also enable their contestation.

The relationship between religion and the media has always been complicated. When Benedict Anderson explored the origins of national consciousness, he credits the impact of “print-capitalism” for the success of the Reformation movement.⁵⁴⁵ Protestantism also rose due to its exploitation of print media to mobilise for “politico-religious purposes”.⁵⁴⁶ The utilisation of print media by religious groups was also successfully replicated by pioneering Islamic religious reformists – i.e. the Islamists – at the turn of the 20th century, which helped them to circumvent the traditionalists' monopoly of mainstream media platforms at the time.

When print media became popular in Egypt in the 1800s, the ulama or religious scholars viewed its introduction with suspicion.⁵⁴⁷ Before print media, they would earn their living by hand-copying old religious manuscripts into new books. Not only that, they would also interpret and explain these texts to the Muslim masses. When print media emerged, it affected not only the traditional livelihood of these ulama, but also risked diminishing their scholarly importance as it was feared that this could lead to careless transmission of religious texts by commercial printers.⁵⁴⁸ Print media would therefore bypass their traditional-societal relevance since readers were not necessarily interested in the ulama's explanation and interpretation of the texts. Rather, especially among the rich, these printed scriptures became collector's items.⁵⁴⁹ With their role as the interpreter of the sacred texts compromised, these texts would also be relegated as traded goods, thereby weakening their religious authority.

⁵⁴⁵ Benedict R. O'G Anderson, *Imagined Communities: Reflections on the Origin and Spread of Nationalism*, Rev. ed (London ; New York: Verso, 2006), 36.

⁵⁴⁶ Anderson, 40.

⁵⁴⁷ Although Ottoman-era fatwas on print publication deemed it permissible.

⁵⁴⁸ Timothy Mitchell, *Colonising Egypt* (Univ of California Press, 1991), 132; Skovgaard-Petersen, 'Fatwas in Print', 77.

⁵⁴⁹ Skovgaard-Petersen, *Defining Islam for the Egyptian State*, 1997, 52.

To avoid the breakdown of “textual authority”, the ulama pushed for the establishment of a religious body consisting of qualified scholars who would be responsible for printing religious books and journals.⁵⁵⁰ This was contingent clearly on their good relationship with the state. Yet as some ulama were wary of print media, others were quick to take advantage of it.⁵⁵¹ There were other religious elites who filled the demand for originality by being authors and editors.⁵⁵² Others took advantage of mass publication by promoting their religious agendas unto the masses, most notably by the likes of reformists/Islamists such as Rashid Rida, who founded the journal *Al-Manar*. Rida himself had a background in journalism and religious studies and operated from Cairo, which was then the “new-media hothouse” owing to advent of Arabic mechanical print.⁵⁵³

Rida’s media-centred activism and quick adaptation of print publication inspired others to do the same.⁵⁵⁴ This idea of using print publication to disseminate religious ideas was taken up by his counterparts in Southeast Asia – known as the *Kaum Muda* (Young Faction) as discussed in Chapter 3 – namely Sheikh Muhammad Tahir Jalaluddin and Syed Sheikh al-Hadi. They came up with the Singapore-based journal *Al-Imam* (1906-1908) as a media platform for Islamist reformist ideas.⁵⁵⁵ This later continued with the Penang-based journal *Al-Ikhwān* (1926-1930), and the newspaper *Saudara* (1928-1941). These publications included fatwas from Egypt which supported religious reformism, especially as it lent credence to their agenda.

These efforts encountered several challenges fronted by the religious traditionalists known as the *Kaum Tua* (Old Faction), who viewed them as a counter-current to existing religious practices in Malaya. Some of the measures to contain these new ideas included denouncing them in newspaper columns and issuing fatwas against their teachings.⁵⁵⁶ More notably, the connections of the *Kaum Tua* to the political

⁵⁵⁰ Mitchell, *Colonising Egypt*, 132.

⁵⁵¹ Skovgaard-Petersen, ‘Fatwas in Print’, 77–78.

⁵⁵² Skovgaard-Petersen, *Defining Islam for the Egyptian State*, 1997, 52.

⁵⁵³ Jon W Anderson, ‘New Media, New Publics: Reconfiguring the Public Sphere of Islam’, *Social Research: An International Quarterly* 70, no. 3 (2003): 896.

⁵⁵⁴ Anderson, 896. Anderson described Rida as a “thoroughly intermediate figure, on the one hand compatriot of Islamic reform thinkers, whom he sought to engage and to influence, and on the other a source and model for the subsequent creators of Islamic political parties.”

⁵⁵⁵ Farish A Noor, ‘From Pondok to Parliament: The Role Played by the Religious Schools of Malaysia in the Development of the Pan-Malaysian Islamic Party (PAS)’, *The Madrasa in Asia: Political Activism and Transnational Linkages*, Amsterdam University Press, Amsterdam, 2008, 195.

⁵⁵⁶ Rahim, ‘Traditionalism and Reformism Polemic in Malay–Muslim Religious Literature’, 95–96.

authority also allowed them to enact legislation that prohibited the spread of reformist ideas and publications, so much so that any religious teachings or publications without prior permission faced serious penalties.⁵⁵⁷ The pulpit was also regulated to prevent messages that challenged traditional religious practices,⁵⁵⁸ a key agenda of the *Kaum Muda*. All this meant that the movement of religious teachers who brought ‘new’ religious influences that contest the status quo was severely restricted. These measures taken by the religious bureaucracy at the time are very similar to how the current religious bureaucracy in Singapore attempts to restrict the inflow of online fatwas from abroad. As we shall see later, formalised legal-bureaucratic authority is invoked to preserve state fatwas and discredit those that contradict them. Not only was the pulpit utilised, but legal measures were introduced by mandating the accreditation of religious teachers in Singapore, which aims to standardise the content of religious teaching and restrict the spread of unapproved religious content.

3.2 Radio and Television Broadcast

Over time, print media was supplemented by radio broadcast. And just like how print media was met with suspicion, there was a distrust among the ulama over initial radio broadcast. Events in Saudi Arabia reflected the apprehension of these religious elites. In the 1940s when the Saudi Arabian king Abdulaziz Al-Saud wanted to introduce radio stations, he had to broadcast Quranic recitations as a way to attract the ulama’s approval.⁵⁵⁹ This paved the way for acceptance among religious elites, and before long, religious programmes became common on Saudi Arabian airwaves as well as other Muslim-majority countries. These forms of mass media allowed Muslims to interact with muftis in ways never before imagined. Fatwas, which used to be private one-to-one consultation with a mufti, were now publicly aired on radio and even changed certain cultural attitudes. Messick described how women engaged radio fatwas more actively than men, which also shaped the types of fatwa broadcast on radio.⁵⁶⁰

⁵⁵⁷ Rahim, 96; Ali, *Islam and Colonialism: Becoming Modern in Indonesia and Malaya*, 185.

⁵⁵⁸ Ali, *Islam and Colonialism: Becoming Modern in Indonesia and Malaya*, 186.

⁵⁵⁹ Al-Kandari and Dashti, ‘Fatwa and the Internet: A Study of the Influence of Muslim Religious Scholars on Internet Diffusion in Saudi Arabia’, 133; Boyd, *Broadcasting in the Arab World: A Survey of the Electronic Media in the Middle East*.

⁵⁶⁰ Brinkley Messick, ‘Media Muftis: Radio Fatwas in Yemen’, *Islamic Legal Interpretation: Muftis and Their Fatwas*, 1996, 310–20.

Despite these developments, the real ‘democratisation’ of mass media began with the advent of satellite television. Compared to state radio and television stations which were highly regulated, satellite television allowed religious programming from private companies. The nature of satellite television also enabled these programmes to reach audiences beyond its original border.

When satellite television was first introduced in the Middle East, the religious authorities there had initially declared them impermissible.⁵⁶¹ Among the reasons for this was that satellite television channels, unlike state-run television broadcast, was free from any form of censorship. Furthermore international religious programmes, especially those featuring charismatic Muslim preachers, could also threaten the religious authority of the local state-sanctioned religious bodies. These religious programmes, as I shall explain later, promote political and religious views that could contest a “nationally defined Islam”.⁵⁶²

Despite that, satellite television grew exponentially and even impacted the way religious programmes were broadcast. Because they rely heavily on advertisement revenues, satellite television stations are closely attuned to consumer demands. This, in turn, empowered the viewers and affected the content of television programmes, including religious ones. Echchaibi noted:

“...in order to appeal to a more media-saturated audience, religious producers are flaunting their skills by making religious preaching less shabby and threatening. The on-screen graphics and studio sets are comparable to entertainment television, making religion a cool commodity for consumption.”⁵⁶³

In essence, the highly commercialised nature of satellite television changed the way religious programmes are presented. Some of these religious satellite television channels were observed to have changed their programming grid to “include contests, documentaries, live audience talk shows, children’s cartoons and a series of lifestyle

⁵⁶¹ Al-Kandari and Dashti, ‘Fatwa and the Internet: A Study of the Influence of Muslim Religious Scholars on Internet Diffusion in Saudi Arabia’, 133; citing Boyd, *Broadcasting in the Arab World: A Survey of the Electronic Media in the Middle East*.

⁵⁶² Nabil Echchaibi, ‘From Audio Tapes to Video Blogs: The Delocalisation of Authority in Islam’, *Nations and Nationalism* 17, no. 1 (2011): 28.

⁵⁶³ Nabil Echchaibi, ‘Hyper-Islamism? Mediating Islam from the Halal Website to the Islamic Talk Show’, *Journal of Arab & Muslim Media Research* 1, no. 3 (2009): 208.

programmes,” which are hosted by “well-known, stylish Egyptian actresses who quit their ‘impure’ acting career to become ‘light’ preachers”.⁵⁶⁴ The themes of these religious programmes also became varied, “from sentimental and medical advice to women’s rights in marriage.”⁵⁶⁵

Satellite television not only produced popular religious programmes, but also created Muslim televangelists. While states generally welcome the “depoliticisation of Islam” through religious entertainment in these programmes, their consequences are viewed with caution. This is because satellite television programmes are not restricted to national borders, and lead to the “transnationalisation of religious authority” which challenges a “nationally defined Islam”.⁵⁶⁶ In other words, the popularity of these programmes turned them into a powerful platform to challenge an established form of Statist Islam in Arabic countries, which has preserved the endurance of their political rulers. A key example of contestation through satellite television programmes is Aljazeera’s weekly show called *Al-Shari`ah Wal-Hayah* (Shariah and Life) which featured the Islamist ideologue Yusuf Al-Qaradawi. The Qatar-based religious scholar is a very popular religious figure whose programme attracted an estimated 35 million viewers per week.⁵⁶⁷ Not only is he a prominent critique of authoritarian Arab regimes, he is also considered the spiritual figure of Islamist political opposition. During the Arab Spring, he provided religious justification for the uprising and was welcomed in Egypt after Hosni Mubarak’s downfall.⁵⁶⁸

In many ways, the changes that satellite television made to the consumption of religious content is testament to the shaping of a ‘nationally defined Islam’. In relation to my thesis, however, there is a key difference between what constitutes this ‘nationally defined Islam’ and Statist Islam. A national form of Islam should not solely represent state interest, but also capture the more deliberative aspects of state-religious dynamics, as illustrated in how the Saudi Arabian king appealed to the ulama to

⁵⁶⁴ Echchaibi, 209.

⁵⁶⁵ Echchaibi, 209.

⁵⁶⁶ Echchaibi, ‘From Audio Tapes to Video Blogs: The Delocalisation of Authority in Islam’, 28.

⁵⁶⁷ David H. Warren, ‘Qatari Support for the Muslim Brotherhood Is More Than Just Realpolitik, It Has a Long, Personal History’, *Maydan* (blog), 12 July 2017, <https://www.themaydan.com/2017/07/qatari-support-muslim-brotherhood-just-realpolitik-long-personal-history/>.

⁵⁶⁸ David D. Kirkpatrick, ‘After Long Exile, Sunni Cleric Takes Role in Egypt’, *The New York Times*, 18 February 2011, sec. Middle East, <https://www.nytimes.com/2011/02/19/world/middleeast/19egypt.html>.

approve radio programmes. Statist Islam is a more accommodative concept that amalgamates various aspects of state-religious relations. In order to preserve a normative form of local religious praxis, the state has a vested interest in ensuring the continued relevance of the local ulama and state fatwas, which contributes to the endurance of the ruling government. This also means that state-aligned religious elites are placed at an advantageous position to assert their authority and affect state decisions, as my thesis has demonstrated thus far.

3.3 The Internet

As the ulama viewed the advent of print media, radio, and television with suspicion, it is no surprise that when the internet was first introduced, religious authorities gave a disapproving opinion, especially given the limited role of the state in censoring its content.⁵⁶⁹ However compared to satellite television, Al-Kandari and Dashti found that the initial fatwas on the internet were “almost equally divided” between those supporting and rejecting it, although opinions against internet softened over the years.⁵⁷⁰

When the internet was in its early years, the ‘Islamic presence’ online was largely limited to practical information catering to Muslims living in Western countries, such as information on prayer times and location of mosques.⁵⁷¹ Over time, official religious institutions – including established ones such as Egypt’s Al-Azhar and prominent individual ulama – began to make their online presence felt.⁵⁷² At this time, Islamist movements also began to sprout online, “mostly devoted to criticizing the Arab and Islamic regimes.”⁵⁷³ As the internet gradually became a more essential form

⁵⁶⁹ Al-Kandari and Dashti, ‘Fatwa and the Internet: A Study of the Influence of Muslim Religious Scholars on Internet Diffusion in Saudi Arabia’, 133; citing Boyd, *Broadcasting in the Arab World: A Survey of the Electronic Media in the Middle East*.

⁵⁷⁰ Al-Kandari and Dashti, ‘Fatwa and the Internet: A Study of the Influence of Muslim Religious Scholars on Internet Diffusion in Saudi Arabia’, 142.

⁵⁷¹ El-Nawawy, *Islam Dot Com: Contemporary Islamic Discourses in Cyberspace*, 64; citing Jon W Anderson, ‘Muslim Networks, Muslim Selves in Cyberspace: Islam in the Post-Modern Public Sphere’, *Dynamism of Muslim Societies*, Tokyo, 2001; This was also noted by Mandaville, ‘Digital Islam: Changing the Boundaries of Religious Knowledge?’

⁵⁷² El-Nawawy, *Islam Dot Com: Contemporary Islamic Discourses in Cyberspace*, 64–65; citing Anderson, ‘Muslim Networks, Muslim Selves in Cyberspace: Islam in the Post-Modern Public Sphere’.

⁵⁷³ El-Nawawy, *Islam Dot Com: Contemporary Islamic Discourses in Cyberspace*, 65; citing Jon W Anderson, ‘Wiring up: The Internet Difference for Muslim Networks’, *Muslim Networks from Hajj to Hip Hop*, 2005.

of communication, it also turned into a platform for the spread of local and transnational fatwas.⁵⁷⁴

These fatwas were especially important for Muslims who have limited access to reputable muftis, typically those in non-Muslim majority countries. These fatwas were useful in instructing overseas Muslims on acts of daily worship, and providing religious guidance on socio-religious issues as a minority citizen. Fatwas – even unofficial ones – therefore function to preserve a form of religious norm even in a foreign environment, which demonstrates their role in shaping an authoritative form of religious praxis. Online fatwas mark a form of “de-territorialisation” as Muslims living overseas looked for answers online against forms of ‘westernisation’ that encroach upon the Muslim life.⁵⁷⁵ While Olivier Roy uses the term “de-territorialisation” in the context of Islamists who physically cross over state borders,⁵⁷⁶ Echchaibi refers to the “de-territorialisation” of fatwas as “a sign of peaceful identity protest” coming from religious “individualist revivalists”.⁵⁷⁷ According to Echchaibi, this happens as the “pious middle classes are extending patterns of religious expression,”⁵⁷⁸ which creates a demand for fatwas, just like how the commercialised demands of modern Muslim consumption perpetuate more religious satellite television programmes.

Examining fatwas therefore indicates a contemporary necessity of the Muslim society and helps to locate the symbolic authority of Muslims on the internet. This relates to what Mandaville referred earlier to as the examination of the “centre-periphery” of the Muslim community as religious institutions wrestle to become the reference point that bridges between the core and the periphery in the discursive spaces of the internet.

Online fatwas address many issues and can come from many sources. Among them are radical groups which issue decrees inciting acts of violence, a subject that this

⁵⁷⁴ There are many writings looking at various online fatwa issuers. Perhaps one of the most notable Sunni sources was IslamOnline.net until there was a change in its management. Another popular Sunni fatwa website is IslamQA.info, which offers Saudi-based fatwas and now covers more than 15 languages, a testament to its demand. See El-Nawawy, *Islam Dot Com: Contemporary Islamic Discourses in Cyberspace*; Ali, *Modern Challenges to Islamic Law*; Bunt, *Islam in the Digital Age*; Bunt, *IMuslims: Rewiring the House of Islam*.

⁵⁷⁵ Echchaibi, ‘Hyper-Islamism? Mediating Islam from the Halal Website to the Islamic Talk Show’, 203.

⁵⁷⁶ Roy, *Globalized Islam: The Search for a New Ummah*, 19.

⁵⁷⁷ Echchaibi, ‘Hyper-Islamism? Mediating Islam from the Halal Website to the Islamic Talk Show’, 204.

⁵⁷⁸ Anderson, ‘New Media, New Publics: Reconfiguring the Public Sphere of Islam’, 889.

chapter focuses on. However I must note here that the popularity of such fatwas among Muslims are low. In fact the most popular form of online religious sources “are not the militant ones, but those promoting a moral renewal of the individual.”⁵⁷⁹ This is also supported by the finding that *political* religious messages “risk positioning Muslims in their particularities at a higher level.”⁵⁸⁰ In order to capture a larger, transnational audience, “a high degree of abstract reasoning is required.”⁵⁸¹ In other words, online sources that address very specific issues such as militancy and radicalism are not quite relevant (nor appealing) to the day-to-day Muslim life and therefore attract a very limited audience. However online religious sources that touch on generalisable issues such as spirituality and acts of worship are simply more relatable to Muslim audiences of varying political contexts, thus making them more popular. This, however, does not mean that radical fatwas deserve less scrutiny, because even one individual who takes it seriously can pose grave danger to the society that he or she lives in. As such the state and state-linked religious bodies simply have to give more attention to these radical decrees and take measures to curb their influence.

4 Regulating Religious Influences

Fatwas fulfil the demand for religious instructions, which become more pressing in global political events. One example is war, the very nature of which compels many people to take a stand and voice their convictions even if it does not directly affect them. Combined with the demand for religious opinions in such events, fatwas became an international religious phenomenon. Fatwa issuers thus hold the power to interpret the ‘Islamic view’ on war. I have mentioned that Haddad’s examination of fatwas on the Gulf War shows their disparity according to their affiliation.⁵⁸² Fatwa bodies tied to countries allied to the US tend to support the war, while independent institutions and those linked to Islamist groups opposed it. Examples such as these lead to claims that fatwas are exploited to justify the political position of their parent entity, and in

⁵⁷⁹ Albrecht Hofheinz, ‘The Internet in the Arab World: Playground for Political Liberalization’, *International Politics and Society* 3, no. 1 (2005): 90–91.

⁵⁸⁰ Ehab Galal, ‘Friday Khutba without Borders’, *Political Islam and Global Media: The Boundaries of Religious Identity*, 2016, 98.

⁵⁸¹ Galal, 98.

⁵⁸² Haddad, ‘Operation Desert Storm and the War of Fatwas’.

doing so contributed to the deepening fissure between the state and the religious opposition.

The subsequent US invasion of Iraq and the toppling of Saddam Hussein led to a power vacuum that resulted in the flourishing of militant Islamist groups. More recent events in Syria enabled these groups to gain territory there. As these groups' existence rely on religious legitimacy, they also issued fatwas and religious decrees to justify their agenda. There were fatwas calling Muslims all over the world to join the radical group known as the Islamic State (IS),⁵⁸³ or to commit attacks in Western countries,⁵⁸⁴ all of which were couched in religious terms. These were then spread via the most convenient way possible: the internet. As these ideas cross beyond the borders of their authors, it forces localised religious bodies to address them. As such, it is very pertinent to look at how state fatwas wrestle religious authority amidst the muddle of online fatwas.

In many countries such as Saudi Arabia,⁵⁸⁵ Jordan,⁵⁸⁶ Turkey,⁵⁸⁷ and India,⁵⁸⁸ fatwas were issued against violent extremist groups such as Al-Qaeda and the IS. In addition to fatwas, other channels of dissemination were also utilised. For example, the Egyptian state fatwa institution Dar Al-Iftaa published a downloadable book in 2014 titled *The Ideological Battlefield* to disprove radical ideas. This is in addition to numerous books and treatises by prominent religious leaders that condemned acts of terror.⁵⁸⁹

⁵⁸³ 'Isis Leader Issues Call to Muslims', *BBC News*, 1 July 2014, sec. Middle East, <http://www.bbc.co.uk/news/world-middle-east-28116846>.

⁵⁸⁴ 'Islamic State Calls for Attacks on the West during Ramadan in Audio Message', *Reuters*, 22 May 2016, <https://www.reuters.com/article/us-mideast-crisis-islamicstate/islamic-state-calls-for-attacks-on-the-west-during-ramadan-audio-message-idUSKCN0YC0OG>.

⁵⁸⁵ Ian Black, 'Saudi Clerics Declare Isis Terrorism a "heinous crime" under Sharia Law', *The Guardian*, 17 September 2014, sec. World news, <http://www.theguardian.com/world/2014/sep/17/saudi-clerics-fatwa-declares-terrorism-heinous-crime-sharia-law>.

⁵⁸⁶ 'Fatawaa 3065', General Iftaa` Department, accessed 4 October 2017, <http://aliftaa.jo/QuestionEn.aspx?QuestionId=3065>.

⁵⁸⁷ 'Turkey's Top Cleric Calls New Islamic "caliphate" Illegitimate', *Reuters*, 22 July 2014, <https://www.reuters.com/article/us-iraq-security-turkey-religion/turkeys-top-cleric-calls-new-islamic-caliphate-illegitimate-idUSKBN0FR16120140722>.

⁵⁸⁸ '70,000 Indian Clerics Issue Fatwa against Terrorists', *Christian Science Monitor*, 10 December 2015, <https://www.csmonitor.com/World/Global-News/2015/1210/70-000-Indian-clerics-issue-fatwa-against-terrorists>.

⁵⁸⁹ See for example Muhammad Tahir-Ul-Qadri, 'Fatwa on Suicide Bombings and Terrorism', *Minhaj-Ul-Quran Publications*, 2010; Muhammad Afifi Al-Akiti and Gabriel F Haddad, *Defending the Transgressed by Censuring the Reckless against the Killing of Civilians* (Aqsa Press and Warda Publications, 2005).

Religious pronouncements also came in the form of collective statements that challenge militant fatwas. These are usually issued by a group of ulama. While state fatwas are typically directed towards the domestic audience, combined statements merge the influence of both prominent state-affiliated and independent ulama and cater to a transnational audience, which make them more appealing to the masses. An example is the Amman Message issued in 2004. It condemned religious sectarianism brought by militant groups and was endorsed by some 500 Muslim political and religious elites worldwide. Another collective statement is the Mardin Declaration, which reviewed a well-known classical fatwa on the imperativeness of armed jihad (religious struggle).⁵⁹⁰ The Mardin Declaration addressed a famous fatwa by the 14th century scholar Ibn Taymiyyah, which is often quoted by extremists to justify religious militancy. The declaration stated that the classical fatwa has been erroneously cited and did not actually support armed jihad.⁵⁹¹ Another example of a collective religious

⁵⁹⁰ Sheila Musaji, 'The Mardin Conference – Understanding Ibn Taymiyyah's Fatwa', The American Muslim (TAM), 18 November 2010, http://theamericanmuslim.org/tam.php/features/articles/mardin_conference; 'The Mardin Declaration', Al-Habib Ali Zainulabdin Al-Jifri, 30 March 2010, <http://www.alhabibali.com/en/news/the-mardin-declaration/>; Tom Heneghan, 'Muslim Scholars Recast Jihadists' Favorite Fatwa', *Reuters*, 31 March 2010, <http://uk.reuters.com/article/us-islam-fatwa-violence/muslim-scholars-recast-jihadists-favorite-fatwa-idUSTRE62U0VU20100331>.

⁵⁹¹ The mistake in the fatwa was found after comparing the original manuscripts stored in a Damascus library. The fatwa addressed an issue which occurred in Mardin, Turkey, which was at the time controlled by the Mongols. While they converted to Islam, they were criticized by some for their lack of faithful adherence to their new-found faith. Due to this, Ibn Taymiyyah was asked thus whether Mardin was an abode of war or the home of peace. The fatwa and its consequences are summarised below:

His answer was that an unprecedented composite situation had emerged. Mardin was neither an abode of peace where the Shariah prevailed nor was it a land of war because the inhabitants of the region were believers. Therefore, he decreed that "the Muslims living therein should be treated in accordance to their rights as Muslims, while the non-Muslims living there outside the authority of Islamic law should be treated according to their rights." ...But the text was subsequently changed to read: "...while the non-Muslims living there outside the authority of Islamic law should be fought as is their due." This was done through the substitution of two letters in a single word. In the second version the word *yu`amal* (should be treated) had been rendered as *yuqatal* (should be fought) as a result of which the purport of the decree was drastically altered...The corrupted version made its first appearance more than a hundred years ago in the 1909 edition of Ibn Taymiyyah's 'Fatawa'...This did incalculable damage because the error was never rectified and was not only republished time and again but also rendered into English, French and several other languages. It was used by the Egyptian ideologue Muhammad abd al-Salam Faraj (1954-1982) for his book 'Al-Faridah ahl-Gaibah' which posits that jihad is the sixth pillar of Islam and, in the words of Sheikh Abd al-Wahab al-Turayri, "has become a manifesto for militant groups" including Al-Qaeda and its affiliates. Faraj established the Jamaat al-Jihad in 1981 which assassinated President Anwar Sadat on October 6 of that year. He was executed six months later.

See: Iftikhar Murshed, 'The New Mardin Declaration', *The News*, 30 March 2014, <https://www.thenews.com.pk/archive/amp/493722-the-new-mardin-declaration>.

statement is the Letter to Baghdadi. Published in September 2014, it was issued as an open letter to the IS leader who had called on Muslims worldwide to join the group. The open letter also explained why the very establishment of the IS cannot be justified according to Islamic law and laid out the qualifications for a mufti, therefore challenging IS' credentials in issuing fatwas. This letter was signed by more than 100 prominent Islamic scholars.⁵⁹²

These collective statements, while not exactly defined as fatwas, clearly functioned as one. Not only were these statements issued by qualified religious experts, they also provided clear religious instructions, and even directed them against an existing 'religious' opinion. Yet these were not issued by particular fatwa bodies, rather a combination of individual ulama and religious institutions. The reliance on collective statements makes sense because it means that the message they wanted to relay is covered in a single document, and their combined endorsement would also mean wider popularity. This was clearly one of the intents of these collective religious statements; although they were addressed to the militants, they also function to "discourage potential radicals from joining the...ranks" of radical groups.⁵⁹³

Despite these efforts, the onslaught of militant propaganda persists. Especially in the age of the internet, controversial and polemical opinions – whether religious or otherwise, preaching violence or political reform – are very difficult to contain. This brings us back to examine the efforts of local religious authorities to fend off these radical fatwas from their border.

In Southeast Asia, the state/official fatwa issuers of different countries took different measures to address these radical foreign fatwas. In Indonesia, the two largest Islamic groups there – the Nahdlatul Ulama and Muhammadiyah – issued religious condemnations against the IS.⁵⁹⁴ Both of these groups, and several others, are

⁵⁹² 'Letter to Baghdadi', Open Letter to Baghdadi, accessed 26 July 2018, <http://www.lettertobaghdadi.com/>.

⁵⁹³ Samuel Smith, 'International Coalition of Muslim Scholars Refute ISIS' Religious Arguments in Open Letter to Al-Baghdadi', *The Christian Post*, 25 September 2014, <http://www.christianpost.com/news/international-coalition-of-muslim-scholars-refute-isis-religious-arguments-in-open-letter-to-al-baghdadi-127032/>.

⁵⁹⁴ 'Indonesia's Nahdlatul Ulama Leads Charge against ISIS', *The Straits Times*, 28 November 2015, <http://www.straitstimes.com/asia/se-asia/indonesias-nahdlatul-ulama-leads-charge-against-isis>; Joe Cochrane, 'From Indonesia, a Muslim Challenge to the Ideology of the Islamic State', *The New York Times*, 26 November 2015, sec. Asia Pacific, <https://www.nytimes.com/2015/11/27/world/asia/indonesia-islam-nahdlatul-ulama.html>.

represented in the Majelis Ulama Indonesia or MUI, the centralised religious entity tasked to issue fatwas. Yet as a central religious body, the MUI did not issue fatwas against the IS as it regarded the matter as clearly prohibited, whereas fatwas are issued only to clarify murky religious issues.⁵⁹⁵ Meanwhile in Malaysia, the official fatwa body issued a fatwa against the IS in 2014. The fatwa mentioned that the “inclination and excitement of Muslims to wage [armed] jihad on behalf of ISIS [Islamic State of Iraq and Syria] or ISIL [Islamic State of Iraq and the Levant] on Syrian soil is the result of confusion in understanding the true concepts of jihad and martyrdom according to Islamic law.”⁵⁹⁶

In Singapore, numerous statements condemning terrorism and promoting religious peace were issued by the Office of the Mufti and Islamic Religious Council of Singapore (MUIS).⁵⁹⁷ The Mufti of Singapore himself had publicly condemned terrorism.⁵⁹⁸ This includes what I mentioned in the opening of this thesis when a Singaporean militant was featured in an IS propaganda video, in which the mufti warned Singaporean Muslims against falling for religious misinterpretation.⁵⁹⁹ The mufti also weighed in on other terrorism-related issues. For example when a terror suspect escaped from a Singapore jail in 2010, the mufti warned that harbouring a fugitive contradicts Islamic principles.⁶⁰⁰

Despite the Fatwa Committee being the state-sanctioned religious instructor in Singapore, they were not the main religious group associated with addressing religious extremism and terrorism. Much of these efforts were led by various others, notably the Islamic non-governmental organisations (NGOs). As early as 2003, a book entitled *Muslim, Moderate, Singaporean* was jointly published by a local religious NGO

⁵⁹⁵ ‘MUI Haramkan Ajaran ISIS [MUI Forbids ISIS’ Teachings]’, *Kompas.Com*, 8 July 2014, <http://nasional.kompas.com/read/2014/08/07/20033701/mui.haramkan.ajaran.isis>.

⁵⁹⁶ *Kompilasi Pandangan Hukum: Muzakarah Jawatankuasa Fatwa Majlis Kebangsaan Bagi Hal Ehwal Ugama Islam Malaysia [Compilation of Rulings: Muzakarah of the Fatwa Committee of the National Council for Islamic Affairs Malaysia]* (Selangor, Malaysia: Jabatan Kemajuan Islam Malaysia (JAKIM), 2015), 247.

⁵⁹⁷ Office of the Mufti, ‘Resilient Families: Safeguarding Against Radicalisation’ (Majlis Ugama Islam Singapura, 2017); Islamic Religious Council of Singapore, *Facebook*, 5 July 2016, <https://www.facebook.com/MUIS.SG/posts/10154069733541329?match=YXR0YWNrcw%3D%3D>.

⁵⁹⁸ ‘Muslim Leaders Denounce Extremism after 27 Arrested for Terror Links’, *Channel NewsAsia*, 20 January 2016, <http://www.channelnewsasia.com/news/singapore/muslim-leaders-denounce-extremism-after-27-arrested-for-terror-l-8221732>.

⁵⁹⁹ Salleh, ‘Muis Condemns ISIS Video Featuring Singaporean’.

⁶⁰⁰ Zul Othman, ‘Harbouring a Fugitive “against Islamic Principle”’: Muis’, *Today*, 23 November 2010.

together with a local mosque. The book outlined “six principles of moderation” for Muslims in Singapore.⁶⁰¹ In the same year the Singapore Islamic Scholars and Religious Teachers Association (Pergas) – an influential religious body – organised the Convention of Ulama which aimed to “define and combat extremism,” and resulted in the publication of a book titled *Moderation in Islam in the Context of the Muslim Community in Singapore*.⁶⁰² Perhaps the most prominent organisation that specialises in addressing religious extremism is the Religious Rehabilitation Group (RRG). The RRG is a voluntary group consisting of religious scholars in Singapore. It was set up in 2003 to respond to self-radicalised individuals, and also to rehabilitate and counsel detained terror suspects.

In Singapore, it would seem that state fatwas remain in the backdrop of efforts countering religious extremism. There were no specific fatwas against violent extremism, instead statements condemning terrorism were made individually by the mufti or attributed to the religious administrative body MUIS. The collective effort of religious leaders formed the bulwark of countering extremist ideas, which were more varied in nature. More notably these efforts represent the traditional-societal link of religious elites to the Muslim audience, which reinforces the ‘soft’ side of adhering to religious instructions.

State fatwas already possess formal recognition that enables them to invoke legal and bureaucratic authorities. However can they play a more formal role in preserving local religious norms to counter terror and radical religious decrees imported from abroad? My case studies will look at how the legal-bureaucratic link of state fatwas in Singapore was invoked to fend off radical fatwas. I will highlight two key projects that preserve state fatwas and discredit foreign ones: Friday sermons, and the creation of a register of approved religious teachers called the Asatizah Recognition Scheme (ARS).

These two measures show how legal-bureaucratic authority is exploited to preserve state fatwas. Friday sermons in Singapore are prepared by the religious bureaucracy,

⁶⁰¹ Muhammad Haniff Hassan, ‘Community-Based Initiatives Against JI By Singapore’s Muslim Community’, Commentaries (RSIS, 16 January 2006), <https://www.rsis.edu.sg/rsis-publication/idss/759-community-based-initiatives-ag/>. The article also mentioned: “The six principles are the rule of law; recourse to peaceful means; democracy; being contextual in thinking and practices; respect for the opinions and rights of others; and upholding Islamic teachings.”

⁶⁰² Hassan, ‘Community-Based Initiatives Against JI By Singapore’s Muslim Community’.

specifically the Office of the Mufti. The register of qualified religious teachers meanwhile was a project whose objective was – among others – to give official recognition to religious teachers. It is impossible for these measures to be done without recognising the legal-bureaucratic authority of state fatwas in the first place. While the outcome of these two measures are manifold, they ultimately bolstered the authority of state fatwas over other (radical) fatwas. As a result, the legal-bureaucratic authority of state fatwas was expanded to define which religious content can be taught in the country, and entrenched their capacity in shaping Statist Islam.

4.1 Friday Sermons

The Friday sermon (referred to as *khutbah*, alt. *khutbah*) is a compulsory form of Islamic ritual. Every Friday, male Muslims are religiously obliged to congregate in mosques around mid-day to listen to these sermons, which is then followed by a short prayer. In Singapore, the Friday sermons for the mosques are prepared by the secretariat of the Fatwa Committee, known as the Office of the Mufti. While it is common for these sermons to be read with little or no changes, it is not mandated for imams to follow them. Yet according to several imams I spoke to, on certain occasions when their sermons were deemed to have deviated too much from the official prepared ones, they were contacted by the state security apparatus and asked to explain their reasons for doing so.⁶⁰³ This shows the authoritarian capacity of the state in maintaining its desired order through the pulpit.

Friday sermons serve as a way for the state (if not the religious bureaucracy) to regulate religious norms and perceptions. Friday sermons that address terrorism and radicalism, therefore, should also be seen within the wider ambit of state effort to regulate religious affairs. After all, this is a compulsory weekly religious observation that fills up mosques every week and provides a direct way to disseminate ideas. From the state's point of view, it is an immensely useful platform that can shape Muslim public opinion.

The content of these prepared sermons varies and covers a wide range of topics, including Islamic law, spirituality, history, and more. As a theme, terrorism in sermons was addressed even before the September 2001 World Trade Centre attacks. For

⁶⁰³ Mosque Imam #1, Personal Interview, interview by Afif Pasuni, Online, 24 July 2018; Mosque Imam #2, Personal Interview, interview by Afif Pasuni, Online, 26 July 2018.

example in June 2001, there was a sermon mentioning how Islam was wrongly depicted as a religion that promotes terrorism. In such sermons, there were little elaboration on malicious or deviant teachings associated with religious extremism and violent militant groups. Rather, the message of the sermon called for peaceful co-existence with other faiths. The sermon stated:

Know, my brothers, that Islam is not a religion of force. The Prophet in his struggles and striving never once used a sword to threaten a person to embrace Islam. And neither did he ever teach his companions to do that. Instead the Prophet showed us the proper manner of calling others to Islam. He showed and taught us to love, he showed and taught us to practice mutual respect whether or not such persons had faith.⁶⁰⁴

In these pre-9/11 sermons, topics such as religious moderation and jihad – main topics related to terrorism – were usually couched as secondary themes to events in Islamic history.

Understandably after the 9/11 incident and the subsequent terror attacks that followed, themes relating to religious extremism became more common and central in Friday sermons. These sermons began to directly address extremism and radicalism in religious beliefs, and emphasised religious tolerance, moderation, and reconciled religious living in a secular country. A February 2003 sermon said:

Since the September 11 [2001] incident and the [October 2002] Bali blast, the Muslim ummah [or worldwide Muslim community] has been under a lot of exposure. Accusations such as terrorists, militants and extremists have been hurled at us. However, let us remain calm... Let us use these exposures in our favour and prove how beautiful, kind and great Islam is. Many of us Muslims are moderates who condemn terrorism, as such let us prove that stand of ours through constant dialogues with the non-Muslims.⁶⁰⁵

Addressing jihad, another sermon from August 2003 stated:

⁶⁰⁴ Majlis Ugama Islam Singapura, 'Islam Is A Religion of Tolerance' (Friday Sermon, 22 June 2001).

⁶⁰⁵ Majlis Ugama Islam Singapura, 'Importance of Communication' (Friday Sermon, 14 February 2003).

Well-being and security are general foundations of Islam. Jihad in the form of war is not a key principle of Islam. It is used only to fight against tyranny, oppression, and invasion. It cannot be applied if there is a more effective alternative that can be used to achieve the stated objectives. As such Muslims should not feel apologetic for promoting the peaceful message of Islam. They should not feel awkward in condemning any forms of violence by anyone, if such violence is not based on acceptable reasons.⁶⁰⁶

The pulpit was also invoked to address local arrests made by the police for terror-related offences. After one such arrest in 2015, the sermon stressed the importance of obtaining religious education from recognised sources and called on Muslims to engage only accredited religious teachers. The sermon also said:

If we are careless in our process of understanding religious teachings, the end result will be detrimental... There are still various types of deviant teachings that are accepted by the Muslim community... And there are also propagations of extremist teachings which focus on distorting religious texts for the purpose of terrorism. This is getting more amplified with the proliferation of borderless marketplace of information that is hard to be controlled on the internet. Therefore, groups which aim for ultimate destruction are utilizing the internet as a platform to propagate their teachings and ideologies.⁶⁰⁷

And in a 2016 sermon titled *The Virtues of Patience*, the sermon mentioned:

Trends that people go crazy over become out-dated and are forgotten within a few months. In fact, this “trend” also affects how some people attain knowledge and information – by using a shortcut method. They want to acquire knowledge fast and they prefer information to be presented in a short but succinct manner. This may result in individuals not being attentive enough in practicing patience in their lives... This includes being patient in seeking knowledge, and to clarify what we read from the Internet. Patience is also

⁶⁰⁶ Majlis Ugama Islam Singapura, ‘Memahami Risalah Sebenar Islam [Understanding the True Message of Islam]’ (Friday Sermon, 29 August 2003).

⁶⁰⁷ Majlis Ugama Islam Singapura, ‘Knowledge That Enlive The Faith’ (Friday Sermon, 29 May 2015).

important in developing our resilience to tackle the issue of terrorism that is threatening our society today.⁶⁰⁸

Despite state fatwas not addressing religious extremism, the fact that these Friday sermons discussed these issues showed not only the preservation of a normative religious position, but more importantly supported the authority of state fatwas above foreign ones. Almost all of the mosques in Singapore use these prepared sermons, making the message consistent across the country. By raising suspicion on the credibility of online Islamic sources, these sermons also positioned local religious teachers as the most credible source of Islamic knowledge. Such a narrative not only discredits unverified online religious decrees, but also elevates the role of local religious instruction as a number of sermons stressed the need to look for “accredited” religious teachers.⁶⁰⁹ As I will explain in the next section, one of the stipulations for being accredited is that religious teachers cannot teach content which contradicts the opinion of state fatwas. Ultimately, these sermons reinforced the authority of state fatwas.

Another issue that these sermons addressed is Singapore’s claim of being a secular state. In many ways, secularism is placed at the opposite end of religiosity.⁶¹⁰ To mitigate public opinion on the state, state secularism has to be affirmed that it can co-exist with Islam, or at least that it is not oppressive to the Islamic belief. In order to discredit the idea that the secular state is the polar opposite of religion and therefore a justifiable target for religious extremism, Friday sermons have to portray some form of secular-Islam conformity.

My survey of Friday sermons showed a shift in the way state secularism is addressed. Earlier sermons advised Muslims to be more consistent in their religious practices *despite* being in a secular environment. A July 2000 sermon titled Islam and Secularism emphasised on modest dressing, filial and communal responsibility, and

⁶⁰⁸ Majlis Ugama Islam Singapura, ‘The Virtues Of Patience’ (Friday Sermon, 2 September 2016).

⁶⁰⁹ Majlis Ugama Islam Singapura, ‘Developing Resilience as Muslims in Singapore’ (Eidulfitri Sermon, 17 July 2015); Majlis Ugama Islam Singapura, ‘Developing Our Iman and Confidence Through Knowledge’ (Friday Sermon, 6 November 2015); Majlis Ugama Islam Singapura, ‘Al-Anah as The Third Pillar of Hikmah’ (Friday Sermon, 29 July 2016); Majlis Ugama Islam Singapura, ‘Ramadan: Building Confidence And Unity’ (Friday Sermon, 6 July 2016); Majlis Ugama Islam Singapura, ‘Faith, The Source for An Excellent Ummah’ (Friday Sermon, 10 March 2006).

⁶¹⁰ Durkheim, *Sociology and philosophy*; Toile, ‘Durkheim on Religion and Moral Community in Modernity’.

called for Muslims to be proud in displaying their faith.⁶¹¹ While affirming that Muslims should follow the secular law in place, the sermon cautioned:

Whosoever rejects the teachings of Islam will face difficulties in this world and the hereafter. We must be proud of Islam... But we must examine ourselves. Do we follow all of Islamic guidance and teachings? Or do we only follow Islamic rituals while applying non-Islamic ideas in other aspect of our lives...Is Islam wrong, or are we as Muslims wrong if we do not follow one hundred percent what Islam asks us to do?⁶¹²

Later sermons however were more explicit in reconciling the issues Muslims face when living in a secular state. A 2015 sermon stated:

Today, we have seen negative influences in the world which may sow the seeds of hatred and cause division and disunity in the religious harmony of our country. They promote an exclusive understanding and practice of religion, and they reject diversity and differences in opinion, going against the grain of the diverse nature of humankind. Further, there are radical ideas that promote rigidity and extremist religious behaviours. For example, there are ideas that seek to instil doubts in Muslims that they cannot live in the modern world. They claim that one cannot practice Islam properly if one is to live in a secular country like Singapore. Hence, there are calls by radical groups such as ISIS to migrate to their territories which they claim constitute an “Islamic state”.⁶¹³

By explicitly reconciling the Islamic faith in the secular state, the sermons inadvertently lent legitimacy to the secular political system, and by extension the existing political authority.

Another way to portray secular-Islam conformity through sermons is by removing all mention of state-Islam conflict in Singapore. This particular point was excellently illustrated by Mostarom. She argues that official Friday sermons in Singapore have been sanitised from mentioning political affairs.⁶¹⁴ In her survey of official sermons

⁶¹¹ Majlis Ugama Islam Singapura, ‘Islam Dan Sekularisma [Islam and Secularism]’ (Friday Sermon, 7 July 2000).

⁶¹² Majlis Ugama Islam Singapura, ‘Prinsip Agama Dalam Jiwa Mukmin Pada Setiap Ketika [Religious Principle in the Believer’s Heart All the Time]’ (Friday Sermon, 24 March 2006).

⁶¹³ Majlis Ugama Islam Singapura, ‘Developing Resilience as Muslims in Singapore’.

⁶¹⁴ Mostarom, ‘The Singapore Ulama’, 573.

from 2006 to 2011, none of the sermons “made any reference to current political affairs, including those that were directly related to the Muslim community.”⁶¹⁵ Issues that were deemed “politically sensitive or directly linked to politics” were “deliberately left out” of the weekly Friday sermons.⁶¹⁶ Mostarom’s PhD thesis meanwhile noted how these prepared sermons remained quiet on controversial religious issues. They did not address controversial religious issues arising from state regulation of Islam,⁶¹⁷ nor the 2011 remark made by the former Prime Minister Lee Kuan Yew that Muslims should “be less strict on Islamic observances” and that integration is possible for “all religions and races except Islam.”⁶¹⁸ In 2013 when an online petition was circulated to campaign for the hijab to be allowed for uniformed services (and consequently shut down), there was no reference to this in the Friday sermons.⁶¹⁹ This is telling since in the context of an authoritarian state that regulates religious affairs, the “de-politicisation” of sermons itself is can be a political act to manage public opinion.⁶²⁰

The regulation of Friday sermons indicates that while religious bureaucrats are, at times, well-positioned to inject their authority in state-sanctioned religious projects, they themselves have to abide by some semblance of bureaucratic logic and restriction. In the context of an authoritarian state, this hinders any criticisms against the government. I concede that for large parts, the proximity of the religious bureaucracy to the state does not function in a one-way communication, rather it operates through reciprocity. However there is a clear power asymmetry between the state and the Islamic religious bureaucracy,⁶²¹ which is evident in Friday sermons. By remaining quiet on contested religious issues and attempting to reconcile secular-Islam differences, the sermons implicitly sanctioned the legitimacy of the state’s secularist authoritarian dictum.

⁶¹⁵ Mostarom, 573.

⁶¹⁶ Mostarom, 573.

⁶¹⁷ Tuty Raihanah Mostarom, ‘Singaporean Muslim Identity in the Discourses of the Local Islamic Religious Islamic Community: State Project or Self-Initiative(s)?’ (PhD Thesis, King’s College, 2018).

⁶¹⁸ ‘MM Lee Speaks Again on Malay-Muslim Integration’, The Online Citizen, 10 April 2011, <https://www.theonlinecitizen.com/2011/04/10/mm-lee-speaks-again-on-malay-muslim-integration/>.

⁶¹⁹ Mostarom, ‘Singaporean Muslim Identity in the Discourses of the Local Islamic Religious Islamic Community: State Project or Self-Initiative(s)?’

⁶²⁰ Mostarom, ‘The Singapore Ulama’, 572–73.

⁶²¹ Abdullah, ‘Religious Representation in Secular Singapore’.

The Friday sermon subjects a ready audience of adult Muslims week after week, through a network of mosques extending all over the country. It is therefore a useful platform not only to teach religious knowledge, but also endorse or question political legitimacy. As such, the control of Friday sermon is not a new phenomenon. The way the pulpit is regulated bears close similarity to the practice of the previous generation. Drawing on the example of the Malaysian state of Kelantan in the early 1900s, the imam of the mosque, who is typically approved by the state religious council, was given the mandate to appoint and fire the *khatib* or sermon-giver.⁶²² The religious bureaucracy, with the ruler's support, also set out guidelines for the content of Friday sermons, and asked mosque officials to report those did not abide by it.⁶²³ Both Kelantan a century ago and Singapore today regulate weekly Friday sermons and the content that should be addressed on the pulpit. Both sought to preserve the established religious orthodoxy and orthopraxy, as well as the political status quo.

Friday sermons are also regulated in other countries. For example in Turkey, the sermons are prepared by the Directorate for Religious Affairs, known as the Diyanet. In 2014, sermons disseminated before the local elections implicitly supported the social media ban by the ruling AK Party.⁶²⁴ Similarly in Egypt when the military government took control in 1952, mosques were reasserted by the state, and along with it the regulation that Friday sermons were to iterate content showing "loyalty to the existing order".⁶²⁵ Topics of the sermon were given out to preachers beforehand, with the option to read prepared sermon texts.⁶²⁶

In essence, the regulation of Friday sermons in Singapore promotes a particular form of religious practice that is deemed 'right'. As these sermons discredited foreign sources of religion that do not fit the local narrative, this effectively prioritised local sources. This reflects how the formalised legal-bureaucratic authority of the religious

⁶²² Ali, *Islam and Colonialism: Becoming Modern in Indonesia and Malaya*, 185.

⁶²³ Ali, 186.

⁶²⁴ Svante Cornell, 'The Rise of Diyanet: The Politicization of Turkey's Directorate of Religious Affairs', *The Turkey Analyst*, 9 October 2015, <https://www.turkeyanalyst.org/publications/turkey-analyst-articles/item/463-the-rise-of-diyamet-the-politicization-of-turkey's-directorate-of-religious-affairs.html>.

⁶²⁵ Bruce M. Borthwick, 'The Islamic Sermon as a Channel of Political Communication', *Middle East Journal* 21, no. 3 (1967): 304; Asghar Fathi, 'The Role of the Islamic Pulpit', *Journal of Communication* 29, no. 3 (1 September 1979): 102–6, <https://doi.org/10.1111/j.1460-2466.1979.tb01717.x>.

⁶²⁶ Bruce M. Borthwick, 'The Islamic Sermon as a Channel of Political Communication', 305.

bureaucracy allows it to regulate the content of weekly sermons, and through them, lent credence to the religious authority of state fatwas in the Muslim community.

Yet while state fatwas can claim to be the most reputable local religious instruction, religious knowledge and information are also obtained through other sources. Key interlocutors of the sacred texts are also those who teach religion to the masses: the religious teachers. In order to set a more consistent standard of religious message that follow the narrative set by the religious bureaucracy, the religious teachers – specifically regulation over them – have to be scrutinised.

4.2 The Asatizah Recognition Scheme (ARS)

The local term for an Islamic religious teacher is *ustaz*, pluralised as *asatizah*. As early as 1994, the Asatizah Recognition Scheme (ARS) was mooted with the objective to support the development of Islamic religious teachers and to ensure proper religious instruction in the country.⁶²⁷ One of the purposes of the scheme is to “prevent incidents whereby individuals [claiming to be religious teachers are]... involved in activities that are against the norms and ethics of the religion.”⁶²⁸ More pertinently, the scheme explicitly prohibits religious teachings that deviate from state fatwas, thereby guaranteeing the relevance of state fatwas in various religious classes and homilies. This turns state fatwas into a benchmark of acceptable religious teachings and mandates legal and doctrinal religious instructions to abide by them. Religious classes are effectively transformed into a platform that forcibly reiterates state fatwas to the masses.

The scheme started in 2005 as a voluntary system. In 2017 it became mandatory for religious teachers to be registered and accredited. As of 2016, an estimated 80% or more than 1,800 Islamic religious teachers in Singapore were registered under the scheme.⁶²⁹ By registering under the ARS, an *ustaz* is permitted to teach religious

⁶²⁷ ‘Response from Pergas Regarding Calls to Make the Asatizah Recognition Scheme (ARS) Mandatory’ (Pergas, 22 August 2016), 1, <http://www.pergas.org.sg/media/MediaStatement/PressRelease-ARSfinal.pdf>.

⁶²⁸ ‘Response from Pergas Regarding Calls to Make the Asatizah Recognition Scheme (ARS) Mandatory’, 1–2.

⁶²⁹ Ervina Mohd Jamil and Shahida Sarhid, ‘Skim Pelengkap Keupayaan Asatizah Hadapi Cabaran Masa Kini [Scheme to Bolster *Asatizah*’s Capacity in Facing Today’s Challenges]’, *Berita Harian*, 1 October 2016, <http://www.beritaharian.sg/wacana/skim-pelengkap-keupayaan-asatizah-hadapi-cabaran-masa-kini>.

subjects in private classes, mosques, and homes. The accreditation is contingent on two main criteria: moral and educational qualifications.

The legislative amendments for the ARS were made through an existing section in AMLA which gave the religious bureaucracy extensive powers over religious schools in Singapore. Section 87 of AMLA vested “control of Muslim religious schools” to the key religious administrator MUIS, and gave it power to register, establish, or reject the creation of Muslim religious schools. MUIS is also empowered to approve its curricula of instruction, and more importantly in section 9, “with the approval of the Minister, make rules for carrying out the purposes of this section.” I believe it is under this section that further rules were created for the ARS. Due to the formalised legal provision endowed on the religious bureaucracy, changes to what constitutes a religious teacher was made possible, even to the extent that it defines who the religious teachers are, and the content that they are allowed to teach.

The ARS sets a particular moral code of conduct that the *asatizah* have to adhere to. The guidebook states that the applicant has to be “fit and proper” to teach at an Islamic education centre, with the following criteria:⁶³⁰

In considering whether a person is fit or proper to teach, the following will be taken into account —

- (i) any conviction for any offence involving dishonesty, moral turpitude, violence or harm to children
- (ii) prior suspension or cancellation of ARS
- (iii) any behaviour of the person that does not satisfy a standard of behaviour generally expected of a teacher at an IECP [Islamic Educational Centres and Providers], or is otherwise disgraceful or improper

The religious teacher must also fulfil at least 30 hours of training, called the Continuous Professional Education, within three years.⁶³¹ Previously graduates of reputable foreign universities were automatically included in the system. But the

⁶³⁰ *Asatizah Recognition Scheme (ARS) And Islamic Education Centres & Providers (IECP) Regulation Handbook for Prospective Applicants* (MUIS, 2017), 10.

⁶³¹ *Asatizah Recognition Scheme (ARS) And Islamic Education Centres & Providers (IECP) Regulation Handbook for Prospective Applicants*, 13–15.

changes now mean that even such graduates are not exempt and have to be certified. They are required to first attend a programme called Certificate in Islamic Thought in Context in order to become properly accredited under the ARS.⁶³²

According to the scheme, the objectives of the Continuous Professional Education are threefold:⁶³³

1. Continuously enhance *asatizah*'s knowledge and skills;
2. Keep *asatizah* abreast of emerging trends and developments both regionally and internationally and their impact on the community's socio-religious life;
3. Enable *asatizah* to deliver and provide religious guidance which is relevant and suited for Singapore's context.

Religious teachers risk being excluded from the register if they do not conform to these requirements.⁶³⁴ While this applies to those who break the code of conduct, ethically or morally, it also applies to those whose teachings are deemed locally unsuitable. The combination of both moral code and educational training would set a common standard for religious teachers in Singapore. Because those that do not meet the criteria risk expulsion, the ARS also safeguards the 'industry' from religious teachers who might be involved in criminal or religiously-unaccepted practices.

The accreditation of the *asatizah* could be regarded as a way to 'trademark' the title of religious teachers, so that only persons teaching within accepted religious precepts are officially recognised by the religious bureaucracy. The characteristics of the ARS are hardly any different from that of other industries, such as accountants, lawyers, or doctors. However the scheme should also be seen from the perspective of the state's religious regulation, which stems from the concern on the onslaught of foreign fatwas. These foreign fatwas not only challenge the local brand of Islam, but also threaten security in the authoritarian secular state. Furthermore because this local brand of

⁶³² *Asatizah Recognition Scheme (ARS) And Islamic Education Centres & Providers (IECP) Regulation Handbook for Prospective Applicants*, 10.

⁶³³ *Asatizah Recognition Scheme (ARS) And Islamic Education Centres & Providers (IECP) Regulation Handbook for Prospective Applicants*, 13.

⁶³⁴ Nity Farhana Dolhamid, 'Asatizah Perlu Patuh Kod Etika ARS Jika Ingin Ajar Agama, Berkuatkuasa 1 Jan 2017 [Asatizah Must Follow ARS Code of Ethics to Teach Religion, Effective 1 Jan 2017]', *Berita Harian*, 29 December 2016, <http://berita.mediacorp.sg/mobilem/singapore/asatizah-perlu-patuh-kod-etika-ars-jika-ingin-ajar-agama/3401422.html>.

Islam has thus far been supportive, or at least tolerant, of the secular authoritarian state, it is within state interest to ensure its endurance. Therefore measures were taken to perpetuate local religious norms while restricting the propagation of ‘unapproved’ content among local *asatizah* by setting new legal measures through the ARS.

I must be clear that I do not deny the benefit of a scheme that properly accredits and continuously trains its members. After all, proper supervision tends to encourage professionalism and competence, important virtues of any trade, even religious ones. However what I argue is that the ARS scheme should be looked beyond its purported claims. In examining the establishment of a new religious registry in Singapore, the state culture of religious management should be taken into consideration, just as the political and social contexts should be considered. In light of continued concerns over terrorism and radicalism, and initiatives that discredit suspicious religious opinions, the ARS facilitates the control of information that is being passed to Muslims via two channels.

Firstly, the training stresses upon religious teachers to only address “religious guidance” that is deemed “relevant and suited for Singapore’s context”.⁶³⁵ Having to attend training at an average of 10 hours per year allows the accreditation body to impress upon the teachers to conform their teachings to accepted local religious norms. Even those who graduated from widely-recognised Islamic seats of knowledge overseas have to undergo specialised training to obtain the Certificate in Islamic Thought in Context, which would inform them with the type of content that is deemed suitable by the religious bureaucracy.

Secondly, and this is the most important point this section makes: the teachings must abide by state fatwas. The ARS regulation stated that religious teachers “must be guided in matters of religious doctrine by the rulings of the legal (fatwa) committee.”⁶³⁶ The ARS regulation specifically iterated that under AMLA, “the Legal (Fatwa) Committee is the only official body to rule on points of Muslim law in Singapore. Accordingly, the religious positions (fatwas) of the Committee must be respected. Religious positions from other sources (including those that originate from

⁶³⁵ *Asatizah Recognition Scheme (ARS) And Islamic Education Centres & Providers (IECP) Regulation Handbook for Prospective Applicants*, 13.

⁶³⁶ *Asatizah Recognition Scheme (ARS) And Islamic Education Centres & Providers (IECP) Regulation Handbook for Prospective Applicants*, 35.

foreign fatwa bodies) which conflict with the fatwas from the Legal (Fatwa) Committee should not be privileged.”

Not rejecting further considerations behind the ARS, its implication on state fatwas remains central to this thesis. Because foreign fatwas and other religious materials remain accessible and impossible to contain online, the interlocutors of religious ideas – the religious teachers – thus become the subject of the regulation. The ARS is explicit that only locally-relevant religious instructions issued by accredited religious leaders are accepted. To do so, they utilised formalised legal authority to enact laws preventing unapproved persons from teaching religion.

As religious teachings become formally mandated to abide by state fatwas, this also changes how fatwas function in the Muslim community. Legally, state fatwas are non-binding, except if legislated as law, or used as a basis for court judgements. As such, the role of state fatwas merely is instructive especially among religious teachers because they are equipped to access the multitude of international fatwas, and even classical ones. In addition, they are also trained to interpret the very sources of Islamic law, enabling them to issue their own fatwas. By making sure that local religious educational content abides by state fatwas, this risks hindering the democratisation of knowledge among religious teachers as well as their students. And despite the initial non-binding nature of state fatwas, and that these religious teachers are not employees of the religious bureaucracy, the ARS binds state fatwas *on* them, leaving little room to publicly interpret religion. This is not to say that there is no space for other religious opinions to be taught, as there are many ways for a teacher to relay or even endorse contradictory opinions in the classrooms and homilies. Yet by being mandated and formalised, at the same time constricting non-approved religious views, this ultimately reinforces the authority of state fatwas in Singapore.

Even before the ARS, state fatwas are the *only* form of religious instruction that is legally and bureaucratically recognised in the country, and therefore command substantial authority over Muslims in Singapore. With the ARS, it forces the acceptance of state fatwas even among religious teachers, and further strengthens the position of state fatwas as a powerful religious norm-setter for the Muslim community in the country.

This also reflects the extent of policy feedback that state fatwas can affect. The formalised authority of state fatwas was demonstrated in earlier chapters through the negotiations and contestations taking place within bureaucratic and legal boundaries. In this chapter the informal authority of state fatwas became formally entrenched among Islamic religious teachers. As key religious interlocutors in the society, having them abide by state fatwas facilitates the regulation of the Muslim community through religious norms. Even though state fatwas do not directly affect this particular legal enactment (unlike, e.g. the organ donation policy), I argue that they became the key beneficiary behind it; the ARS boosts their formal legal presence among a crucial group of religious elites in Singapore.

State fatwas therefore represent a major platform for religious projects; not only is the Muslim community reminded of their relevance in the weekly Friday sermons, they also become formally embedded in every religious class as well. The ARS formally guarantees the dissemination of state fatwas through religious teachers, an action which was previously exercised voluntarily. The formalised connection of state fatwas in religious teachings also creates a new platform to shape Statist Islam among Muslims in Singapore.

5 Conclusion

I have traced the role of online fatwas in contesting local religious authority, and the latter's response in preserving its domestic position. To conclude this chapter as well as to briefly sum up my assessment of the empirical cases (i.e. Chapters 4 to 6), I wish to raise two points: the modern consequences of state regulation of religion, and the legal-bureaucratic manifestation of Statist Islam.

5.1 The Modern Consequences of State Regulation of Religion

This chapter focused on the proliferation of online fatwas and religious opinions that spread radical religious ideas among Muslims, calling them to commit violent acts in the name of religion. This is a phenomenon most pronounced in the aftermath of 9/11 and subsequent attacks, wars, and invasions, which only perpetuate the rise of militant groups. Exploiting the internet, these groups issued religious decrees calling on Muslims to join the war and invoke revenge attacks on Western targets. Local religious bodies countered these radical fatwas by issuing their own decrees, ranging from opinions by individual ulama, to collective declarations, to state fatwas.

The media have always presented themselves as a challenge for any established power. In Singapore as well as many authoritarian states, there is a clear tendency to regulate the media, so much so that mainstream media became synonymous with the state. Yet the internet is a beast different from its predecessors; unlike print media or television there is no effective way to contain the flow of information online, especially since it empowers almost anyone to publish whatever they desire. As such, when it becomes impossible to regulate the medium, a different strategy is employed, and that is by empowering the ‘approved’ opinion.

In authoritarian states, invoking the law to promote one opinion over another is not exactly a novel way to manage the flow of information. However what is significant in the case of secular Singapore is that state fatwas were used to fend off non-approved religious ideas. After all, I have sufficiently established that state fatwas in Singapore – despite proximity to the state – exercise a degree of autonomy to resist and contest state decisions. Therefore by making state fatwas the benchmark of ‘approved’ religious opinions, it not only demonstrates the expanding role of religious decrees within the secular legal framework, but also marks a surprising consequence of state co-optation and management of religion. In this case, the state is left with little choice but to rely on its religious constituency as the resident expert to define acceptable religious praxis and mitigate against radical decrees. With the legal-bureaucratic authority already endowed to the trusted religious bureaucracy, the only rational outcome in combatting foreign religious ideas is through the further empowerment of the religious bureaucracy, or in this case its most relevant arm: official state fatwas.

As a result, systemic measures were undertaken by the religious bureaucracy to counter radical fatwas. The religious machinery was deployed in order to preserve local fatwas. Through standardised Friday sermons, the religious bureaucracy actively discredited extremist religious ideas and implicitly legitimated the secular system of governance. The pulpit stressed obtaining religious education from recognised local sources and called on Muslims to engage only properly accredited religious teachers. The subtext was to support established local religious instructions, which refers to state fatwas above all others.

A new system to accredit Islamic religious teachers was also introduced. It ensures that the content of their classes, lectures, and homilies abide by local religious norms.

More importantly the accreditation system explicitly forbids any religious content that contradicts state fatwas. The ARS formally enforces the position of state fatwas in daily classes held in mosques, homes, and other private institutions. The scheme sets moral and educational criteria for religious teachers in Singapore and mandates that only locally-relevant religious instructions which abides by state fatwas should be taught by the religious teachers. This formalises the relationship between state fatwas and religious teachers, making the latter subordinate to the former, and legally forcing *asatizah* to abide by them. This ultimately strengthens the position of state fatwas as the main form of religious instruction in the country.

This underlines the consequences of managing religious demands through state machinery. Weaving religious interests with state resources creates a hybrid set of secular-religious interests that intertwine according to the structural potentials and opportunities that arise. While on one hand it can be argued that the state takes an even closer role in the monitoring of religious affairs, it is also hard to deny that religious demands are present in the very legal-bureaucratic mechanism that the state runs on. In effect, this enables religious interests to be pushed through this state-linked medium, thus facilitating the shaping of a ‘national’ religious praxis. This brings me to my second point, and that is the formation of Statist Islam.

5.2 Facilitating Fatwas to Shape Statist Islam

I have previously demonstrated how state fatwas command a consistent following among religious teachers,⁶³⁷ who also form a reliable channel for the fatwas to propagate. In this chapter we examined the ARS which binds state fatwas on religious teachers. This represents how the informal authority of state fatwas became formalised through a new law, which created new ways for them to be relevant especially at the legal-bureaucratic level, thereby embedding their institutional relevance for some time to come.

The ARS marks a significant formalisation of religious authority in Singapore in recent times. It not only demonstrates the reach of the religious bureaucracy, but underlines the formal role that state fatwas play today in defining religious knowledge, which situates them at an advantageous position to shape Statist Islam. The expansion of state fatwas’ legal status to define religious teachings facilitates their capacity to

⁶³⁷ See the discussion on population control policy in Chapter 4.

shape a nationally-defined religious praxis. Previous chapters have demonstrated how state fatwas invoked their bureaucratic authority to sway state policies. Where the law is concerned, however, state fatwas have limited ‘formal’ recourse to go against court decisions, so much so that they had to accommodate court judgments (see Chapter 5). Linking this chapter back to these earlier case studies, it becomes apparent that the modern legal relevance of state fatwas is not contingent solely on the courts, but also the lawmakers.

I have shown in this chapter that the legal expansion of state fatwas was made possible through the available structural potentials, which stemmed from – in part – concerns over religious radicalism and extremism. This opportunity then facilitates the religious bureaucracy to flex its arm that wields state fatwas and expanded their role in Singapore law.

With this, state fatwas are further entrenched in shaping the normative form of religious praxis in the country. Even before the ARS, state fatwas could contest state policies and court judgements, not only through formal channels of communication but also informal channels which enabled them to directly instruct the Muslim community. A key conduit between these fatwas and the Muslim audience are the interlocutors; not the media, but the religious teachers whose role is not simply to disseminate these fatwas to their students, but also to assess them and – in the process – legitimate state fatwas.

Because the ARS stipulates that these religious teachers cannot contradict state fatwas, the former now has to legally abide by the latter. This ensures that the religious position of state fatwas is also the position maintained by these religious teachers. The ‘official’ version of religious praxis is preserved through a law which ensures its ‘uniformity’ from the top to the bottom, i.e. from the state fatwas all the way to the content that the *asatizah* teach their students. As a result, the ARS promotes a more consistent message between the different layers of religious actors.

I have to reiterate however that legalistic conformity does not necessarily guarantee adherence. For example just because state fatwas are supposed to legally follow court decisions, this does not mean that they lack any room to contest them. Similarly it would also be hasty to assume that the new law ensures the complete support of state fatwas by religious teachers with no room for them to exercise some form of

resistance. However my point here is that this highly legalised development marks a new legal-bureaucratic manner in which Statist Islam is shaped in Singapore. The religious bureaucracy, whose legal-bureaucratic link enables it to affect a form of policy feedback, had become empowered in the state and legislation processes. This, in turn, enabled the expansion of state fatwas' legal capacity over religious teachers. As a result, state fatwas now have legal power to define a vast range of religious praxes, beyond the specific religious observations mentioned in AMLA. This new legal enactment therefore significantly facilitates the role of fatwas to define Statist Islam in Singapore.

The regulation of religion therefore does not only benefit the state; proximity to the state also opens the door for the religious bureaucracy to expand their legal-bureaucratic relevance. This weaving of state-religious interests is threaded onto the very legal-bureaucratic channels designed to regulate religious demands. As a result, state fatwas gained an immensely powerful platform to contest and inform state decisions on religious issues, while working within legal-bureaucratic limitations. Opportunities emerged which pushed state fatwas in new positions and expanded their legal influence over religious issues. These developments ultimately bolstered their capacity to directly define religious praxis in the country. From shaping Statist Islam through traditional-societal connections, bureaucratic links, and specific legal provisions, Singapore state fatwas are now further empowered to define a vast range of religious praxis through new legal means.

Chapter 7: Conclusion

1 Introduction

This thesis was guided by the question: What political function do state fatwas play in the modern secular state? To answer this, my research traced some of the different ways through which state fatwas matter in the everyday life of Singapore Muslim citizens, as well as how these religious instructions claim modern relevance in an authoritarian secular milieu. A key finding of this thesis is that the co-optation of fatwas to regulate religion also embedded them in the workings of the state, and pushed state fatwas to play a more prevalent role within state structures. This finding matters because it challenges the dominant position on state-religious relationship in Southeast Asia, in which the functions of co-opted religious institutions are largely ignored,⁶³⁸ and their potential in affecting change through bureaucratic channels is under-researched.

In analysing the relationship between fatwas and the state, my research sought to move beyond the two dominant understandings of state-religious relations that characterise the field of Political Islam and Southeast Asian Studies. I explored something of a middle path between two popular explanations of state-religious dynamics: Islamism, and state co-optation of religious actors and institutions. For the former, religious elites are understood as entities that tirelessly confront attempts of state control by trying to capture state structures, such as through political parties and social movements.⁶³⁹ The latter is meanwhile rooted in the state being a powerful actor that effectively controls religious institutions and undertakes multiple projects in order to maintain power and legitimacy.⁶⁴⁰ Situated between these two approaches, my thesis took a more nuanced position in analysing the dynamic of state-religious relationship. I position myself within a sociologically-infused approach in which state religious policies, institutions, and transformations are understood as always at least partially embedded within a

⁶³⁸ Steiner, 'Madrasah in Singapore: Tradition and Modernity in Religious Education'; Steiner, 'Governing Islam: The State, the Administration of Muslim Law Act (AMLA) and Islam in Singapore'; M. B. Hooker, 'Syariah Law in Contemporary Indonesia & Malaysia', *Reform*, no. 80 (Autumn 2002): 47–51.

⁶³⁹ Roy, *The failure of political Islam*; Roy, *Globalized Islam: The Search for a New Ummah*; Roy, 'The New Islamists'; Kepel, *Jihad*; Anderson, 'Fulfilling Prophecies: State Policy and Islamist Radicalism'.

⁶⁴⁰ Rodan and Jayasuriya, 'The Technocratic Politics of Administrative Participation: Case Studies of Singapore and Vietnam'; Rodan, 'Singapore "Exceptionalism"? Authoritarian Rule and State Transformation', 2008; Weiss, 'Of Inequality and Irritation'; Khong, 'Political Legitimacy through Managing Conformity'.

wider social context. This thesis sets out to understand the role that state-linked religious elites play in both reaffirming and resisting statist control of religion. To this end, I examined the role of state fatwas or religious decrees in negotiating, informing, and defining a national standard of religious praxis. Instead of surveying more overtly politicised state-religious confrontations – be it through manoeuvres of Islamic political parties or mass campaigns of social activists – I honed in on state fatwas as a key site within which the broader state-religious dynamics play out. Accordingly, my research also scrutinises how state-recognised religious institutions (which issue fatwas) play a relatively subtle, yet effective role in resisting and negotiating statist demands.

2 Argument and Contribution

I now turn to look at the key arguments, contributions, and the implications of my research. This section will be divided into two parts. I will firstly examine the main empirical notions addressed in this thesis, which also discuss the limits of my methodological approach. I then turn to the conceptual elements that were invoked and developed in analysing state-religious relationship.

2.1 Empirical Arguments and Contributions

State fatwas in Singapore arguably command inherent religious authority in the eyes of the Muslim community, yet it is only through the mechanisms of the modern state that their authority is expanded even further. The result of being situated within state bureaucracy – while not without its challenges – enabled state fatwas to benefit from state decisions and legal developments. Coupled with a state behaviour that continuously regulates religious affairs, state fatwas became not only entrenched in the state machinery, but also expanded their religious authority within the modern legal-bureaucratic structures.

2.1.1 Consequences of Co-opting Religion

Drawing upon the Singaporean case and yet seeking to contribute to a far wider literature on Islamic politics both inside and outside of the Southeast Asian region, this thesis advanced two key empirical arguments. Firstly, the state policy of regulating religious affairs has led to the embeddedness of religious institutions within the state bureaucracy. Because bureaucratisation elevates the position of state fatwas over ‘non-official’ fatwas, this link not only increases their capacity to shape state

decisions but also strengthens their societal acceptance in the Muslim community.⁶⁴¹ Secondly, as a consequence of this persistent regulation of religious affairs, the role of state fatwas was cemented within state structures and the legal framework, which then changes the capacity of the state. For example, state fatwas now define how the state polices religious affairs by determining which Islamic religious teachings are legal or otherwise. As a result in Singapore, the role of religion in state structures has become far more notable. In the context of the secular authoritarian Singapore state, there is a certain irony that statist religious activity has become ever more prominent, a development seen in how the state allows state-linked religious institutions such as MUIS to expand its jurisdiction of religious affairs.⁶⁴² But rather than seeing these developments as incompatible with state authoritarianism, my thesis posits that the contemporary Singaporean state is in many ways the product of religious compromises that have opened up some scope for societal contestation, with state fatwas playing a central role to this politics of contestation.

To demonstrate my points above, I have shown how state fatwas can serve as key sites within which negotiations and resistances to the implementation of state policies take shape. This process of negotiation has also led to the considerable expansion of the role of state fatwas in secular law. I demonstrated the gradual growth of state fatwas' legal relevance over time with the creation of several enactments to regulate Islamic affairs, and how, in recent years, new laws were introduced to make state fatwas the legal benchmark for religious teachings. The formal recognition of fatwas into what they are today follows a steady development of religious institutions' legal evolution for over a century. In Chapter 3, I highlighted how the modern religious bureaucracy in Singapore governing Muslim affairs can be traced back to colonial-era petitions by members of society. These petitions advocated for the bureaucratisation of religious elites, with the intent to standardise the administration of religious affairs in Singapore. Gradually, legal enactments began to regulate a wider scope of religious issues. Moreover, the growth and strengthening of the religious bureaucracy was particularly impacted by the short-lived merger between Singapore and Muslim-majority Malaysia. As a result, Singapore's subsequent independence in 1965 saw an extensive

⁶⁴¹ Refer to section 3.3.2 'The Administration of Muslim Law Act (AMLA)' and section 4.2.1 'The Influence of State Fatwas'.

⁶⁴² Steiner, 'Madrasah in Singapore: Tradition and Modernity in Religious Education'; Osman, 'The Religio-Political Activism of Ulama in Singapore'.

co-optation of religious elites into the state-sanctioned religious bureaucracy, thereby establishing an official fatwa-issuing body.

Legislation enacted following Singapore's independence some half a century ago formed the legal basis of the modern religious bureaucracy. The key legislation governing Muslim law, the Administration of Muslim Law Act (AMLA), outlined the regulation of religious affairs in Singapore, as well as the function of state fatwas, the appointment of Fatwa Committee members, and a standardised fatwa-issuing procedure. Thus the recent legal enactment (discussed in Chapter 6) that expanded fatwas' authority to define acceptable religious teachings should not be taken as a surprise, rather as a continuation of legal evolution spanning over a century. This evolution resulted in fatwas, for the first time in Singapore's history, being elevated to a legal position whereby Islamic religious teachings cannot contradict them. This also signals the state's growing reliance on fatwas, which underlines their increased relevance in state structures.

I argue that the recognition of fatwas by the state stems from its broader authoritarian policy of regulating societal demands (including religious ones). This led to the co-optation and bureaucratisation of religious institutions into the state, resulting in the official state recognition of fatwas. State fatwas therefore became accessible to statist demands, while gaining access to state resources and developing a cognizance of state logic. This allowed the authority of state fatwas to grow and increased their capacity to contest state decisions. In Chapter 4, I detailed how fatwas can shape state policies through their involvement in the policymaking process. Through bureaucratic linkages, state fatwas were made central to how Singapore's organ donation policy was formed. The key outcome here was that the state policy for Muslim organ donation had to adhere to what was decreed in the fatwas. Similarly in Chapter 5, I demonstrated how state fatwas represent an authoritative interpretation of AMLA by religious elites. Although this interpretation and the relevant fatwas were rejected by the court, fatwas still provided a channel for religious elites to contest court decisions. State fatwas therefore epitomised a mode of state-religious contestations and negotiations.

This thesis also sheds light on the negotiation of religious demands in a secular authoritarian context. My research therefore examines an anomaly, yet fascinating dynamic that illustrates how state authoritarianism manifests in Singapore. State

fatwas in Singapore operate in a unique manner hardly seen in other countries. Their proximity to the state means proximity to a secular political authority, which undermines the traditional characteristic of fatwas that typically serve as an extension of Muslim political authority. In other words, while an embedded legal-bureaucratic position in a Muslim polity can possibly boost the legitimacy of fatwas, the same in a non-Muslim country may potentially be detrimental to them.

Taking fatwas as a vehicle of religious demand that is embedded in a secular authoritarian state therefore enables us to understand the mechanisms through which co-optation of religious interests has taken shape in Singapore. This feature of authoritarian governance takes place as a direct result of the bureaucratisation of religious institutions, as it provides positional authority to the co-optees. The co-optation of fatwas both enables and limits religious demands, and underlines how religious elites exercise political pragmatism to pursue religious objectives. Unlike in Muslim-majority countries such as Indonesia where the societal influence of fatwas has the potential to affect political change due to the large Muslim population,⁶⁴³ even with strong societal adherence to fatwas such a scenario will not be possible in Singapore where Muslims are the minority. As such, state fatwas operate as a useful channel within which religious demands can contest state decisions. From the state's point of view, while these fatwas can potentially pose a challenge to its authority, they also remain useful in centralising religious instructions. The alternative to that, where multiple independent fatwa issuers vie for societal authority, is a nightmare of sorts for the authoritarian state that obsessively regulates realms of contestation. Therefore a single centralised fatwa body is preferable, even if it means granting it legal-bureaucratic powers. This represents a unique characteristic of state-religious relationship in Singapore that delicately balances between control and freedom.

One reason that explains my decision to focus on fatwas is the access I have to the research materials. Given the materials on state fatwas that I managed to accrue, focusing on them became the most intuitive choice. The materials which I had access to for my research – key among them confidential fatwa minutes of meetings, relevant documents published by the fatwa body, and interviews with the muftis – have enabled me to portray a better understanding of religious bureaucrats' negotiation of state

⁶⁴³ See section on Indonesia below.

decisions. This access also forms my unique empirical contribution to existing literature on state-religious relationships that have largely relied on open-source documents and not classified ones as my thesis does.

I had almost unfettered access to minutes of fatwa meetings which revealed not only the content, but also discussions on how each state fatwa came to be. This means the minutes of meetings contain *all* the fatwas ever issued by the Fatwa Committee, something which is yet to be made available to the public. In addition my research is also backed by interviews with muftis, which helped me to get a clearer context on the events I covered. My familiarity with the empirical subject is aided by my background in Islamic Studies which enabled me to detect the nuances in these documents and interviews. I was therefore able to provide a much fuller context on the fatwa-issuing process in Singapore, and more importantly apply this in analysing the larger state-religious relationship, as well as its consequences.

However there are limitations to relying on confidential documents. Perhaps the most obvious one is that I cannot cite these documents except with the explicit consent of the content owner. This meant that I had to convince MUIS to allow me to cite these materials. Given that my thesis challenges the dominant narrative on religious co-optation (which says that co-optees have little autonomy), I assumed that my research will be welcomed by MUIS. I was surprised then when they told me not to cite the fatwa minutes of meetings for a journal article that I wrote, which was derived from sections of this thesis. The reason I was given was that they disagreed with how I interpreted the events on organ donation, in which I argued that state policy became the catalyst for fatwa amendments. Rather, according to MUIS, the reason for the amendment was purely theological, and the timing of the policy was merely incidental. This is despite the minutes of meetings clearly stating that Fatwa Committee members acknowledged, and acted on, state pressure.⁶⁴⁴ In the end, however, I managed to get another source to corroborate my argument, and subsequently got the article published. As for this thesis, I have chosen to have it embargoed.

I must be note here that despite MUIS' disagreement over how the minutes of meeting were interpreted, they commendably did not stop me from citing them in my thesis. Yet I have chosen to have my thesis embargoed as I embark on the next phase of

⁶⁴⁴ See Chapter 4 for details.

research which will take a more comparative approach by looking at how Singapore's experience compares to neighbouring states. Whilst the thesis is under embargo, I will further develop this comparative dimension between Singapore and other Southeast Asian countries, namely Malaysia and Indonesia. This embargo would thus give me time to expand some of the chapters into the next iteration of this research.

In addition to the practical methodological concerns which I have addressed above, there are also several case-related limitations when delving too deep within a particular case. Among them is one that concerns how other non-fatwa factors (both religious and non-religious) can affect state-religious relationships. I have argued that state fatwas are central to how religious negotiation takes place with the state, with significant consequences evident through Islamic religious praxis. Yet religious praxis can also be dictated by religious elites through other channels. This is because Statist Islam can be also negotiated at the micro level through other non-fatwa discourses such as the content of textbooks in madrasahs, specific narratives taken by the ulama and *asatizah* in their sermons and classes, and even the activism of organised and loosely-organised religious groups. Then there is the issue surrounding religious groupings based on theological schools, in this case between the dominant Sunni sects. In Southeast Asia, this concerns the Sufi traditionalists and Salafi reformists, bearing shades of historical similarities to the traditionalist *Kaum Tua* (Old Faction) versus the reformist *Kaum Muda* (Young Faction) debate in the colonial era.⁶⁴⁵ The Sufis are associated with the traditionalist school and established a prominent presence in Southeast Asia. They hold an entrenched position in the religious bureaucracy which places them in prime seats to inform the state on religious affairs. The Salafis meanwhile are religious reformists who claim legitimacy through puritanical orthodoxy. Yet the focus of this thesis is the relationship of religious bureaucrats and the state. In examining this dynamic, state fatwas took centre stage in representing the negotiation of religious elites, which then subsumes the differences between various theological schools.

⁶⁴⁵ William Roff, *Kaum Muda-Kaum Tua: Innovation and Reaction Amongst the Malaya 1900-1941* (Journal South-East Asian History, 1962); Roff, 'Patterns of Islamization in Malaysia, 1890s-1990s: Exemplars, Institutions, and Vectors'; Anthony C Milner, 'The Impact of the Turkish Revolution on Malaya', *Archipel* 31, no. 1 (1986): 117-30; Othman and Hanifah Haris, 'The Role of Egyptian Influences on the Religious Dynamics and the Idea of Progress of Malaya's Kaum Muda (Young Faction) before the Second World War'.

Aside from religious elites, there are also others that can assert influence in shaping state-religious relationship. However they are not necessarily ‘religious’, yet can have a considerable impact on religious issues. I am referring to the growing social movement focusing on issues such as LGBT rights and women’s rights. These movements can very well influence the direction of Statist Islam that has thus far been driven by religious bureaucrats embedded in the state, so much so that the latter can – as my thesis argued – affect state decisions. As the state, driven by political expediency, shows greater willingness to accommodate ‘other’ non-religious groups in its decisions,⁶⁴⁶ the status quo of state-religious dynamic is entering a new phase where contrasting moral and religious ideals collide. This development deserves closer scrutiny as it challenges the relationship of traditional religious elites to the state and can reconfigure how state fatwas shape Statist Islam.

However these developments do not mean that state fatwas will be ousted by new actors that seek relevance in some form of state recognition. Nor am I convinced that this will push the authority of religious institutions to the periphery, especially not those already entrenched in the state such as the fatwa-issuing body. In fact I contend that the Durkheimian theory of individualisation of religion, which dismisses organised religions and religious institutions to the periphery, remains to be a uniquely ‘Western’ experience. There are several reasons for this which do not require repetition here (see Chapter 2). The most salient point that I wish to raise here is that state fatwas are *already* embedded in state structures (e.g. Chapter 6 detailed how fatwas gained the right to legally define ‘acceptable’ religious teachings). As new actors emerge to challenge the status quo of state-embedded religious institutions, state fatwas stand to play an even greater role as they can exploit existing forms of positional advantage within the state to further preserve their right to interpret and shape religious praxis. Furthermore the newfound legal authority that allows fatwas to set the right from wrong of Islamic religious teachings also allows them to define what is the ‘correct’ religious behaviour for Muslims in Singapore. State fatwas are therefore placed at the centre of these emerging contestations for religious and moral

⁶⁴⁶ Chua Lynette J., ‘Pragmatic Resistance, Law, and Social Movements in Authoritarian States: The Case of Gay Collective Action in Singapore’, *Law & Society Review* 46, no. 4 (12 December 2012): 713–48, <https://doi.org/10.1111/j.1540-5893.2012.00515.x>; Natalie Oswin, ‘Queer Time in Global City Singapore: Neoliberal Futures and the “Freedom to Love”’, *Sexualities* 17, no. 4 (13 May 2014): 412–33, <https://doi.org/10.1177/1363460714524765>.

legitimacy. As new actors emerge to challenge the status quo, state fatwas will remain crucial in defining state-religious relationship for some time to come.

2.1.2 *The Politics of (Selected) Fatwas in Singapore*

In focusing on the experience of one country for my thesis, I acknowledge that there are concerns surrounding single case study analysis. The most common of which includes the supposed lack of methodological rigour. Many have cautioned that using a single case study can remove the author from serious methodological considerations,⁶⁴⁷ and whether the hypothesis of qualitative single case study analysis is valid and can be generalised.⁶⁴⁸ Such criticisms are addressed by developing methodological techniques that link it to the larger epistemological root,⁶⁴⁹ as well as qualifying the objective of particularisation to gather better depth of a unique context.⁶⁵⁰ As my thesis demonstrated, the generalisability of case studies can also be increased by selecting atypical cases – instead of representative or random samples – which reveal more useful information as they unravel the dynamic of involved actors.⁶⁵¹ From the analytical point of view then, single case study analysis can connect between unique cases, and can be replicated to provide immense empirical benefits.⁶⁵² (Later in this chapter, I will demonstrate how the presented theories can be expanded and replicated for other cases.)

It is therefore clear then that despite its singular focal point, single case study analysis can provide a properly sophisticated and empirically rich account of a specific case. This is particularly appropriate for phenomena that are less amenable to more typical concepts, and those whose discussions have been treated with a rather subjective

⁶⁴⁷ B. Flyvbjerg, 'Five Misunderstandings About Case-Study Research', *Qualitative Inquiry* 12, no. 2 (1 April 2006): 219–45, <https://doi.org/10.1177/1077800405284363>; Lee Peter Ruddin, 'You Can Generalize Stupid! Social Scientists, Bent Flyvbjerg, and Case Study Methodology', *Qualitative Inquiry* 12, no. 4 (1 August 2006): 797–812, <https://doi.org/10.1177/1077800406288622>; Zeev Maoz, 'Case Study Methodology in International Studies: From Storytelling to Hypothesis Testing', *Evaluating Methodology in International Studies*, 2002, 163; Robert K Yin, 'Case Study Research: Design and Methods (Applied Social Research Methods)', *London and Singapore: Sage*, 2009.

⁶⁴⁸ Flyvbjerg, 'Five Misunderstandings About Case-Study Research'; Gary King, Robert O. Keohane, and Sidney Verba, *Designing Social Inquiry: Scientific Inference in Qualitative Research* (Princeton, N.J.: Princeton University Press, 1994).

⁶⁴⁹ Alexander L. George and Andrew Bennett, *Case Studies and Theory Development in the Social Sciences*, BCSIA Studies in International Security (Cambridge, Mass: MIT Press, 2005).

⁶⁵⁰ Harry Eckstein, 'Case Study and Theory in Political Science', in *Case Study Method*, by Roger Gomm, Martyn Hammersley, and Peter Foster (London: SAGE Publications Ltd, 2009), 118–64, <https://doi.org/10.4135/9780857024367.d11>.

⁶⁵¹ Flyvbjerg, 'Five Misunderstandings About Case-Study Research'.

⁶⁵² Eckstein, 'Case Study and Theory in Political Science'.

approach. The unique case of a country – i.e. Singapore in this thesis – does not quite fit within the spectrum of an ‘ideal’ empirical case or concept concerning Islamism (that typically relates to Muslim-majority milieus). This subsequently leads to a line of inquiry that, based on the objectives of Islamism, explains why the application of the theory on Singapore is limited, yet adaptable by synthesising it with another concept. The in-depth single case study that I have presented in the preceding chapters therefore challenges another assumption related to state-religious dynamics, and that is the co-optation of religious elites. This allowed me to discuss the unique in-depth perspective of religious bureaucrats in Singapore, and led me to further develop the concept of co-optation to (a) qualify the nature of co-optative relationship and its consequences, and (b) examine a central theme which is under-researched and of which its practical application is potentially game-changing: official state-sanctioned fatwas.

Another related issue is the selection of particular cases concerning official fatwas. To quickly recap, this thesis presented three sets of case studies on (1) fatwas and state policy, (2) fatwas and court judgement, and (3) the legal incorporation of fatwas. An empirical limitation lies in the types of fatwas chosen for the case studies. Although the reason for the selection was already explained in the introduction chapter, I will expand here on why certain other fatwas and events were omitted. The fatwas that I have covered were selected in order to illustrate their position when addressing issues that were contradictory to the positions of the state and the court. I chose fatwas that are ‘negative’ to official decisions – instead of ‘positive’ samples – because they demonstrate the extent of legal-bureaucratic recognition. Cases where state fatwas align with state policies and legal decisions will only reinforce the perception that the fatwa committee is ineffectual at asserting its independent view. There are several examples to this, such as the state fatwa’s endorsement of the state’s wastewater reclamation project for public consumption.⁶⁵³ Wastewater is impure for ritual cleansing and even after undergoing treatment, there was scepticism on its religious permissibility.⁶⁵⁴ While examining ‘positive’ cases can still identify the unique basis of state fatwas, it would not reveal their legal-bureaucratic dynamic against the state

⁶⁵³ ‘Fatwa Muis: Airbaru Boleh Diminum [Muis Fatwa: Newater Can Be Consumed]’, *Berita Harian*, 19 July 2002.

⁶⁵⁴ Muhammad Haniff Hassan, ‘Meragui Kesucian Newater [Doubting the Purity of Newater]’, *haniff.sg*, 18 July 2007, <http://haniff.sg/pautan/meragui-kesucian-newater/>.

and state structure as the involved actors stand on the same side of an issue. Negative cases fill this gap as they clearly push the boundary of this formal relationship that hinges between co-optation and contestation.

Negative cases therefore demonstrated the constraints that come with legal-bureaucratic relationship and allowed contestations to occur, as captured in Chapters 4 and 5 when the traditional-societal authority of these fatwas was asserted against state and legal demands. Had I chosen positive samples, these contestations would not be visible. Because my thesis challenges the dominant narrative which argues that religious bureaucracy is controlled by the state, negative cases demonstrated how co-optation can result in unintended results, which as I pointed out can also empower the co-optees.

There are also other events in Singapore that relate to state fatwas but were not included in my research, specifically those that demonstrated the fatwas' silence. A notable example is the hijab debate in 2002 and 2013. In 2002, four schoolgirls wore the hijab over their school uniform. They were told by their school to remove the hijab or risk expulsion. The girls (or their parents) persisted with the hijab over the next few days which then led to their suspension. This was described by international media as "the most potent act of civil disobedience that Singapore has seen in years".⁶⁵⁵ Government ministers representing the ruling party were quick to justify the banning of hijab in schools, citing the preservation of "common space,"⁶⁵⁶ maintaining national integration and identity formation,⁶⁵⁷ and warning of "competing demands from other communities to assert their own identities."⁶⁵⁸ Muslim government ministers from the ruling party also rallied against the girls, and pleaded to the families to abandon the cause and "think of the children's future."⁶⁵⁹ The issue was so widespread that it invited comments from other countries in the region. Officials in neighbouring

⁶⁵⁵ Seth Mydans, 'By Barring Religious Garb, Singapore School Dress Code Alienates Muslims', *The New York Times*, 2 March 2002, sec. World, <https://www.nytimes.com/2002/03/02/world/by-barring-religious-garb-singapore-school-dress-code-alienates-muslims.html>.

⁶⁵⁶ David Chew, 'Tempest over Headscarves Ruffles Singapore's Multiracial Calm', *The Japan Times*, 1 March 2002, <https://www.japantimes.co.jp/opinion/2002/03/01/commentary/world-commentary/tempest-over-headscarves-ruffles-singapores-multiracial-calm/>.

⁶⁵⁷ 'Uniform Sekolah Untuk Wujud Identiti, Integrasi [School Uniform to Create Identity, Integration]', *Berita Harian*, 24 January 2002, 9.

⁶⁵⁸ 'Singapore - The Tudung Affair', *Dateline* (Australia: SBS Television, 27 March 2002), <http://www.singapore-window.org/sw02/020327sb.htm>.

⁶⁵⁹ 'Yatiman: Fikirkan Masa Depan Anak [Yatiman: Think of the Child's Future]', *Berita Harian*, 28 January 2002, 4.

Muslim-majority countries of Malaysia, Brunei, and Bangladesh chimed in to criticise the ban, which the Singapore government regarded as interference in domestic affairs.⁶⁶⁰ The highest religious official in the country, the Mufti of Singapore, later issued a statement saying the children's education should take precedence over the hijab.⁶⁶¹ The mufti's statement was contested and led to condemnations against the religious bureaucracy. Eventually, some of the girls returned to school, without hijab, while others moved abroad, bringing the issue to an uneasy pause.⁶⁶²

In 2013, the hijab issue resurfaced again when a lecturer questioned in a job forum why Muslim nurses are not allowed to wear the hijab, citing female Muslim students who did not take up the profession due to the sartorial restriction.⁶⁶³ Subsequently, an online petition was launched to campaign for the hijab to be allowed in uniformed services. The petition was however shut down, but the online momentum was maintained on various social media websites, which criticised MUIS as well as the Muslim ministers for not doing enough to protect religious rights.⁶⁶⁴ The previous Mufti of Singapore was quoted in the news saying that the petition could breed misunderstanding and asked whether it represents the views of all Muslim women as not everyone wants to wear the hijab.⁶⁶⁵ This understandably exacerbated the online criticism against the religious bureaucracy, reminiscent of what happened in 2002.

This forced the current mufti to address the controversy through his personal social media page.⁶⁶⁶ In it, he related his initial reluctance to comment on the issue due to his position as a civil servant, but he decided to do it anyway as he was "worried" about the "vulgar and uncouth" criticism especially directed at the former mufti who had questioned the online petition.⁶⁶⁷ As a result, the issue took a turn to emphasise online

⁶⁶⁰ John Burton, 'Singapore Headscarves Ban Angers Muslims', *Financial Times*, 14 February 2002, <http://www.singapore-window.org/sw02/020214ft.htm>.

⁶⁶¹ 'Mufti Puts School over Scarves', 6 February 2002, <http://news.bbc.co.uk/1/hi/world/asia-pacific/1804470.stm>; Zackaria Abdul Rahim, 'Mufti's Choice', *Today*, 6 February 2002, 2.

⁶⁶² Jose Raymond, 'Tudung Girl Quits S'pore', *Today*, 30 July 2002, 1.

⁶⁶³ Tan, 'Law, Religion, and the State in Singapore'; 'Spotlight on Tudung Ban and Racial Harmony', *AsiaOne*, 13 September 2013, <http://www.asiaone.com/singapore/spotlight-tudung-ban-and-racial-harmony>.

⁶⁶⁴ 'Singapore: Bid to Overturn Hijab Ban', *BBC News*, 13 November 2013, sec. News from Elsewhere, <http://www.bbc.co.uk/news/blogs-news-from-elsewhere-24932400>.

⁶⁶⁵ Yuen-C Tham, 'Mufti Criticises Online Vitriol over Tudung Issue', *The Straits Times*, 29 October 2013, <https://www.straitstimes.com/singapore/mufti-criticises-online-vitriol-over-tudung-issue>.

⁶⁶⁶ The Mufti in 2002 was Syed Isa Semait. He retired in 2010 and was replaced by the current mufti, Mohamed Fatris Bakaram.

⁶⁶⁷ Mohamed Fatris Bakaram, 'Isu Tudung Dan Media Sosial: Membela Maruah Dengan Memijak Maruah? [The Tudung Issue and Social Media: Protecting Dignity by Stepping on Dignity?]',

decorum rather than the right for Muslim women to wear the hijab. The state also responded, but compared to 2002 its response was more ambivalent, opting for discussions with Muslim community and religious leaders, and even signalling that the state's position is an evolving one.⁶⁶⁸ In a posting on social media, the Prime Minister even mentioned a specific timeline by saying: "On the tudung [i.e. hijab] issue, the [state] position is not frozen. Attitudes will shift and arrangements will get updated. We have gradually evolved over the last decade... In 5, 10 years' time, I am confident that we will not be in the same situation as today."⁶⁶⁹ The issue remains unresolved until now.

These examples highlight the significant role state fatwas play in society, especially in cases where the fatwa body refrains from issuing an official decree on controversial issues. Yet the reason I did not include this case in my thesis is because I focus on fatwas' role within pre-approved spaces of contestation, whereas the state has arbitrarily decided to flex its bureaucratic muscle to deny recognising the hijab as a uniform. Furthermore there was no official fatwa issued on the matter, something which my access to confidential key documentation affirms. According to a source who served in the Fatwa Committee, there was no fatwa on the hijab because no one – either from the public or the state – petitioned for a religious ruling on the matter.⁶⁷⁰ While it is safe to say that religious elites view hijab as a compulsory attire for adult female Muslims, the episode underlines a crucial factor in the function of state fatwas: that they have to adhere to proper bureaucratic protocol. As outlined in AMLA, state fatwas are issued only upon request. Since no questions were asked, no fatwas were issued. Although my source claimed that an *irshād* (religious guidance) was published in the earlier 2002 hijab episode, I could not find evidence for this. The only public announcement in this regard that I found was the mufti's personal statement iterating that children's education is prioritised over the hijab.⁶⁷¹

Facebook, 28 October 2013, <https://www.facebook.com/notes/fatris-bakaram/isu-tudung-dan-media-sosial-membela-maruah-dengan-memijak-maruah/10151948546233480>.

⁶⁶⁸ Abdullah, 'Managing Minorities in Competitive Authoritarian States', 220.

⁶⁶⁹ Hsien Loong Lee, *Facebook*, 25 January 2014, <https://www.facebook.com/leehsienloong/photos/a.344710778924968.83425.125845680811480/650145798381463/?type=3>.

⁶⁷⁰ Ex-Associate Member of MUIS Fatwa Committee, Personal Interview, interview by Afif Pasuni, Online, 1 February 2018.

⁶⁷¹ 'Mufti Puts School over Scarves'; Rahim, 'Mufti's Choice', 2.

This particular example shows the overarching authoritarian dynamic that state fatwas operate in. While there is room for state fatwas to assert their demands, it is also clear that the state's arbitrary regulation of religious affairs is a key obstacle that restricts the authority of state fatwas, and religious demands in general. However the point that this thesis makes is that even with these restrictions in mind, state fatwas continuously exhibit a tendency to contest state decisions. In the case studies I mentioned, even contesting on 'approved' issues can result in surprising consequences that ultimately demonstrates the authority of state fatwas. After all, state regulation is an arbitrary and messy thing, which means that fatwas – already having an established position in the state – can subtly advance religious demands within the established state and legal structures.

To sum up this empirical section, my thesis has provided a unique perspective on statist religious policies by shedding important light on the under-researched function of religious bureaucrats and its consequences. In analysing the experience of state fatwas in Singapore, I have shown the effects of religious regulation through legal-bureaucratic co-optation. While this allowed the state to control religious demands in the country, it also entrenched and expanded (Islamic) religious relevance in the modern state and legal structures. With this empirical background in mind, the following section will address the wider conceptual approach that explains state-religious relationship.

2.2 Conceptual Arguments and Contributions

My thesis advanced several key concepts, chief among them Statist Islam and policy feedback. Statist Islam is a concept I developed to analyse the consequences of state-religious relationship. Policy feedback meanwhile is an existing concept which explains how policies affect politics. Although policy feedback is typically applied to broad-based policy programmes, I used it instead to understand how authoritarian religious policies eventually led to the entrenchment of religious interests in state structures. In addition, my thesis also integrated the conceptions of legal-bureaucratic and traditional-societal authority, as well as soft law and hard law in relation to state fatwas. These three groups of concepts – Statist Islam, policy feedback, and authority and law – will be elaborated below.

2.2.1 *Statist Islam*

The first key concept, Statist Islam, is my unique theoretical contribution in the thesis. It represents how, even when operating within statist restrictions, numerous factors and actors can affect the development of a national-level Islamic praxis. Statist Islam differs from its earlier usage that refers to religious projects set by the state, in which the state instrumentalises the Islamic faith through various religious programmes in order to gain legitimacy.⁶⁷² Other times, Statist Islam is used to refer to religious agendas advocated by religious elites through their position in the state, which resembles how Islamist actors pursue their objectives.⁶⁷³ I have to note that the usage of Statist Islam in previous literature was made in passing as a cursory label, rather than as an in-depth concept that explains a particular phenomenon. My conception of Statist Islam differs in that it is a detailed concept that seeks to make sense of the dynamics between the state and religious elites by combining the two opposing perspectives on state-religious relationship, i.e. Islamising the state and *state-ising* Islam, into one. It also acknowledges that state-religious relationship is shaped by various other factors, for example non-religious societal actors (which I mentioned earlier).

Statist Islam is a concept that emerges out of my understanding of how Islamic institutions operate within a Muslim-minority secular authoritarian state, where the highly regulated domains of contestation motivate, if not force, religious elites to pursue religious goals through state-approved avenues such as the religious bureaucracy and, of course, state fatwas. Yet entering into these highly-regulated avenues does not necessarily cancel out the agency of the aforementioned religious elites, because by being co-opted by the state they also gained access to new platforms that can contest state decisions. The development of Statist Islam is also rooted in my reading of certain aspects of the political sociology literature, specifically policy feedback which explains how co-opted actors assert their positional advantage to affect and inform state decisions on religion, resulting in an amalgamated, nationwide form of Islamic praxis, i.e. Statist Islam.

⁶⁷² Saravanamuttu, 'Encounters of Muslim Politics in Malaysia'.

⁶⁷³ Mohamad, 'Making Majority, Undoing Family: Law, Religion and the Islamization of the State in Malaysia'.

To recapitulate, I argue that even where religion is highly regulated, religious praxis is not merely formed by statist demands and regulations, but also the agency of social and religious elites that meshes and combines to create a version of ‘accepted’ Islamic religious observance. This thesis had focused on state fatwas as a mode of contestation that shapes Statist Islam. One of the consequences of co-opting fatwas is that they get to define which religious content is legal or illegal (as explained in Chapter 6). While this might seem as another state measure to regulate religious affairs, I posit that having fatwas *define* what is legally right or wrong changes the capacity of the secular state. This is because rather than state fatwas being placed at the receiving end of state and legal demands (as discussed in Chapters 4 and 5), the situation is reversed as various apparatus of the secular state can now be called to fulfil the demands of fatwas (as they define the legal right and wrong of religious teachings). To this effect, this means that state fatwas can invoke state apparatus to preserve their authority, as the state is legally bound to police religious issues according to terms set by them.

My case studies therefore demonstrated how the amalgamation of state-religious negotiation plays out to affect religious praxis, i.e. Statist Islam. Statist Islam is developed to capture the larger consequences of contestations that shape religious praxis. As a concept, Statist Islam allows me to analyse the macro consequences of constant state encroachment on religious affairs. Instead of looking at state-religious relationship as a one-sided affair (in which the state merely co-opts religious elites to provide a moral veneer for its activities), it is also important to recognise the role of religious elites and their modes of resistance. This leads to a nuanced understanding of the effect of state regulation on religious affairs, as the co-optation of fatwas by the state also comes with unanticipated consequences.

Statist Islam represents the combined effects on religious observance stemming from statist restrictions and interventions. Because it provides a general concept of religious observance, there are several ways on how this can be further expanded. This is done by comparing how other factors (besides state fatwas) play a part in shaping religious praxis. The comparison can be observed at various levels: state bureaucracy, private businesses, and social actors, all of which are affected – directly or indirectly – by statist interpretation and policy on religion. For example, businesses are known to take specific marketing choices that can affect the visibility of religious observations, such as by providing more halal food choices for consumers, and possibly attract other

businesses to do the same. It was pointed out that the halal market can even reconfigure spheres of secular and religious expressions.⁶⁷⁴ Also, Sloane-White conceptualised Corporate Islam as a way for Malaysian businesses to project and interpret forms of religiosity on their employees and companies, especially as these forms of corporate religiosity cannot be separated from established state policies.⁶⁷⁵ Müller meanwhile analyses how spiritual healers interpreted state-led Islamisation projects to fit their own narratives, creating “hybrid pathways to orthodoxy”.⁶⁷⁶ I pointed out above that recent social movements also have an increasing say on how state policies are shaped, and this includes women’s rights groups and LGBT activists. Because state decisions are not immune from these voices, its policies can also be shaped by them. These policies – whether related to the economy, law, or health – can in turn encroach on traditional religious norms espoused in state fatwas, and therefore contest how Statist Islam is formed. Therefore Statist Islam can be adapted in various other disciplines such as conventional anthropological surveys, sociological studies, as well as themes concerning the political economy of religion.

2.2.2 Policy Feedback

The second key concept featured in my thesis is policy feedback, which provides an analytical tool for understanding how fatwas operate in ways that enable religious bureaucrats to assert authority and to resist statist interpretations of religion (as well as the apposite consequences). As explained in Chapter 2, I understand the concept of policy feedback in a way similar to how it is employed by the likes of Skocpol, Soss, and Béland,⁶⁷⁷ which explains that policies “set political forces in motion and shape political agency.”⁶⁷⁸ In my thesis, I examined how new religious constituencies – formed by state policies – sought to preserve and expand their privileged position. Policy feedback is a concept that is rarely employed in understanding state-religious relations – which is all the more surprising given that state-religious relations provide

⁶⁷⁴ Johan Fischer, ‘Feeding Secularism: The Halal Market in London’, *Diaspora* 14, no. 2/3 (2005).

⁶⁷⁵ Sloane-White, *Corporate Islam: Sharia and the Modern Workplace*.

⁶⁷⁶ Müller, ‘Hybrid Pathways to Orthodoxy in Brunei Darussalam: Bureaucratized Exorcism, Scientisation and the Mainstreaming of Deviant-Declared Practices’.

⁶⁷⁷ Skocpol, *Protecting Soldiers and Mothers*; Skocpol, ‘Bringing the State Back In: Retrospect and Prospect The 2007 Johan Skytte Prize Lecture’; Joe Soss, ‘Lessons of Welfare: Policy Design, Political Learning, and Political Action’, *American Political Science Review* 93, no. 2 (1999): 363–80; Béland, ‘Reconsidering Policy Feedback’.

⁶⁷⁸ Sarah K. Bruch, Myra Marx Ferree, and Joe Soss, ‘From Policy to Polity: Democracy, Paternalism, and the Incorporation of Disadvantaged Citizens’, *American Sociological Review* 75, no. 2 (April 2010): 205, <https://doi.org/10.1177/0003122410363563>.

a clear example of the ways through which a set of ideas (i.e. religious values and norms) is the focus of continual contestations between the state and society, leading to the continual reinterpretation of (or the need to actively and continually defend) policy goals. Examples of this are seen in the case study chapters. Chapter 4 showed how state fatwas were petitioned by policymakers which affected a nationwide organ donation policy for Muslims. Chapter 5 demonstrated how fatwas on inheritance law were contested in court. While these fatwas were overruled by the court and amended to bridge the apparent differences between Islamic and civil laws, the message behind the initial overruled fatwas were nonetheless retained. Chapter 6 meanwhile illustrated how state fatwas gained more legal relevance through a new law that mandates religious teachers to abide by them in their teachings. These cases assessed state-linked fatwas as a crucial instrument that represents religious demands vis-à-vis the state and law.

In each situation, policy feedback takes very different forms for different reasons. The first set of case studies (Chapter 4) examined how state fatwas relate to two state policies: one on population control programme and the other on organ donation. The former demonstrated that the bureaucratic relationship between the state and fatwa body did not hinder fatwas' autonomy to contest state policies. In fact the bureaucratic relationship cemented the relevance of fatwas to the state; as state fatwas gained positional authority, their official position made them the point of reference for religious instruction in Singapore and also shifted the preference of the Muslim community to seek local instead of overseas fatwas. The bureaucratic link also resulted in the increased societal recognition of state fatwas among the Singapore Muslim community, so much so that the fatwas could oppose state policies with no apparent bureaucratic consequences. The second case study on organ donation examined how state policies can affect state fatwas, and vice versa. Here, the fatwas were petitioned by policymakers and this effectively tied state decision to them. This placed state fatwas at an advantageous position to shape state decision concerning policies that affect religious praxis. Moreover, when that fails – i.e. when ignored by the state – state fatwas were still able to challenge policies by directly addressing the Muslim community, which demonstrated the informal traditional-societal channels that fatwas exploit. Policy feedback occurred, in this sense, due to the state decision that made fatwas legally and bureaucratically relevant in the first place. This made them the focal

point for religious instruction in the country; their legal-bureaucratic authority not only gave them relevance to state policies, but enabled them to challenge it too.

The second set of case studies (Chapter 5) shifted the focus from state fatwas' bureaucratic significance to their legal relevance. I examined three court cases on inheritance law. Central to these cases is how the Islamic legislation AMLA is interpreted; while the court saw it as a legislation that restricts the legal boundary of state fatwas, the fatwa issuers saw it as a starting point to expand the legal role of fatwas. In these cases, the civil court judged against the fatwas and ordered the distribution of wealth according to civil law, and not according to what the fatwas decreed. While this means that the legal relevance of state fatwas is only as valid as what the civil court judged it to be, closer scrutiny showed that these judgements had limited effect on the autonomy of state fatwas. Even as the fatwas were amended to comply with the court interpretation of AMLA, I showed that the principle message of these amended fatwas remains unchanged. As the amended fatwas retained their original message, the informal traditional-societal authority of fatwas, therefore, became a channel to manoeuvre around court decisions and shape Statist Islam. This proved that as a site of contestation, the court has limited recourse to affect what is decreed in state fatwas. This also showed that the authority of state fatwas is not fundamentally tied to legal or bureaucratic limitations. Rather there is room for them to assert religious instruction on the Muslim community despite the courts judging otherwise, whilst simultaneously claiming legal and bureaucratic relevance (after all these amended fatwas were issued in their 'official' capacity). Policy feedback is therefore epitomised in how the legal position of state fatwas allowed them to interpret AMLA differently from the court, and to insist on the validity of their position despite the court objection. In other words, the state policy that placed fatwas as state-sanctioned religious instruction had elevated the traditional-societal authority of official fatwas, that court decisions bore limited effect to it.

The final case study (Chapter 6) looked at how the legal authority of state fatwas has grown in the last few years. This stems from an increased concern over radical fatwas that spread via the internet. Here I examined two ways in which state fatwas were reinforced vis-à-vis their foreign counterpart. Firstly, the pulpit was invoked as weekly Friday sermons prepared by the Office of the Mufti (the secretariat of the Fatwa Committee) repeatedly sought to discredit the validity of radical foreign fatwas.

Secondly, a new law was put in place to accredit religious teachers or *asatizah*. This new law not only mandates the centralised registration of *asatizah* but also prohibits religious teachings that contradict state fatwas. From informal instructions that shape normative religious praxis, state fatwas are now legally binding in religious teachings in Singapore. This expanded the legal role of fatwas; previously their formal relevance was limited to legal-bureaucratic dealings, but now it becomes legally mandated for *asatizah* to follow fatwas in their teachings. This changes the role of state fatwas to set the definition of legal religious content. Essentially this marks how state fatwas affect policy feedback on religious matters in Singapore, which can be traced back to the incessant state policy of continuous regulation of religious affairs. New concerns led to the need to co-opt religious institutions in new areas – in this case the expertise to define what is ‘desirable’ religious teachings – which made state fatwas the benchmark of legal religious teachings.

These events demonstrated how policies can result in unintended consequences for the state. In this sense policy feedback should not be understood as a description of the mechanisms employed by the state to co-opt societal forces, but as a process of continual negotiation and contestation that frequently results in unanticipated outcomes. In the Singaporean context, a feature of the authoritarian rule has long been the way in which the state closely manages platforms which can potentially challenge its dominance. Common platforms where state power is challenged, such as trade unions and public universities, became regulated through acts of co-optation.⁶⁷⁹ This invariably means that the state becomes directly entangled in demands that would otherwise remain outside its purview. As a consequence, co-opted interests – be they women’s rights, the status of the arts, socio-economic issues, and of course religious matters – fall almost squarely within state responsibility. For religious matters specifically, this micro-management approach then raises the positional authority of religious elites who were selected to broker between state and religious demands, and ultimately allows them to be the voice that the state has to listen to. Although legal and bureaucratic restrictions arise when operating so close to the state, the fact that state fatwas can become a mode to challenge, negotiate, and inform statist

⁶⁷⁹ Rodan and Jayasuriya, ‘The Technocratic Politics of Administrative Participation: Case Studies of Singapore and Vietnam’; Rodan, ‘Singapore “Exceptionalism”? Authoritarian Rule and State Transformation’, 2008; Khong, ‘Political Legitimacy through Managing Conformity’.

interpretations of religion underlines how state-sanctioned religious decrees function in the modern state.

I demonstrated that policy feedback functions conceptually as expected even on state programmes that are not broad-based (i.e. state policies on a religious minority as opposed to economic programmes), and more notably even in authoritarian contexts away from Western liberal democratic countries where it is typically applied.⁶⁸⁰ Although my starting point was the autonomous state – a powerful entity which is placed in a sphere separated from other groups in the society – this does not mean the total separation of the state from other actors in its decision-making process. Rather I applied the neo-Weberian viewpoint in which the state is an entity that cannot be insulated from non-state influences. This reflects the permeability and malleability of even the most authoritarian states to interventions from various groups that seek to expand their sphere of influence through state structures. This argument resonates soundly with how the Singapore government constantly regulates domains of contestations by co-opting social activists and channelling demands through state-approved channels. As a result, while the state might effectively contain dissent and contestation against its authority, it also co-opts the problems and demands of social activists, thereby changing the dynamic of the state. I have to be explicit in that I do not deny the power asymmetry between the state and co-opted actors, for the co-optees themselves acknowledged how state decisionmakers can assert considerable pressure.⁶⁸¹ Rather what I emphasise here is the consequence of this active co-optation on state decisions; that despite the power asymmetry state decisions *can* be changed, whether in the shorter term through policy negotiations (see Chapter 4), or in the long run through the legal-bureaucratic evolution of the co-opted constituent's function within state and legal structures (see Chapters 3 and 6).

My case studies sufficiently explained the role of policies in facilitating the rise of new bureaucratic constituencies with an advantaged position. The constituent I focused on, the fatwa-issuing body, benefited from legal and bureaucratic connections as a result

⁶⁸⁰ See for example Béland, 'Reconsidering Policy Feedback'; Mettler, 'Bringing the State Back in to Civic Engagement: Policy Feedback Effects of the GI Bill for World War II Veterans'; Mettler and Soss, 'The Consequences of Public Policy for Democratic Citizenship'; Skocpol, *Protecting Soldiers and Mothers*; Skocpol, 'Bringing the State Back In: Retrospect and Prospect The 2007 Johan Skytte Prize Lecture'.

⁶⁸¹ See the organ donation case study in Chapter 4 when the fatwa committee deliberated between balancing state pressure and their own religious position.

of state policies on religious regulation. These state fatwas represent the sectoral interest of particular religious elites associated with the religious bureaucracy and enabled them to be consulted in state decisions. This recognition also enabled state fatwas to assert their societal position on religious issues, as ‘official’ fatwas were preferred over other local fatwas and became the benchmark for acceptable religious teachings in Singapore. Therefore as a consequence of state policies, new groups gained the capacity to preserve and expand their interests through legal-bureaucratic recognition. It cannot be overstated that the formalised legal-bureaucratic authority of religious institution is central to the relevance of state fatwas today; not only to the state, but also the Muslim community. Due to the way the modern state works, many facets of everyday life depend on the state and its apparatus, which then impact religious observances. Some examples include state policies which encroach on personal and religious choices, as well as laws that can restrict or expand the function of religious institutions. For state fatwas, the link that they have to the state puts them in an ‘official’ position, which places them as the highest formal instruction to regulate religious praxis where state demands and religious interests intersect.

Despite the application of policy feedback to new areas, there are limitations to its use in my thesis. A key point is that my application of policy feedback is unique in the sense that it is used to examine religious bureaucratic constituencies. As my thesis concerns state fatwas, it analyses the role of state-linked religious elites in affecting state decisions. Therefore I did not examine how religious policies relate to the politics of mass voters and citizens. Because of that, my thesis did not address how policies that regulate religion (or even how the composite of Statist Islam) can affect the political action of the Singapore Muslim community. Also while policy feedback can explain the observable interaction between religious demands and state decisions, it does not assess the full extent to which religious bureaucrats engage with the state. Aside from clear decisions made through fatwas, there are always smaller pockets of inter-personal negotiations that escaped my analysis, which can be examined in future research.

2.2.3 Authority and Law

State fatwas represent how religious instructions seek to find a balance between different sets of interests, namely that of the state and the religious elites. These interests combine unique sets of demands spanning authoritarian state logic, secular

legal intent, and religious logic and morality. My thesis argues that these interests are manifest through two types of authority: traditional-societal authority and legal-bureaucratic authority. Both of these forms of authority underline how negotiations take place through policy feedback, and consequently shape Statist Islam.

These forms of authority also highlight the ways in which state fatwas function today. Traditional-societal authority enables state fatwas to assert their religious reverence over Muslim followers. After all, at their core, fatwas provide religious directions for Muslims to conduct their everyday lives. Essentially, the majority of fatwas concern religious rituals which have almost no bearing on politics or the state, and therefore remained consistent throughout changes in time and political systems. This is why even though Singapore had no official fatwa body in the colonial era, demand for fatwas persisted and led petitioners to seek overseas fatwas (see Chapter 3).

As Singapore gained independence, this created the opportunity for the establishment of a long-desired fatwa body. In order to do so, fatwas have to first be legally recognised, and therefore entrenched within a specific set of legislations designed to administer Islamic law in Singapore. This legal recognition concurrently permitted the bureaucratisation of religious institutions – which includes a fatwa body – that sanctioned the state to have a direct link in the administration of religious affairs. A fatwa body was therefore established within the religious bureaucracy and connected to the larger state bureaucracy, which not only tied it to state regulations but also gave state fatwas ‘positional’ legal-bureaucratic recognition. This recognition in the modern state appended the ‘state’ prefix in state fatwas, and more importantly accorded them with the necessary legal-bureaucratic authority through which religious demands can be asserted.

My thesis argued that the relationship between the state and state fatwas cannot be reduced to a straightforward subjugation of religious institutions. I have highlighted cases in which fatwas’ legal-bureaucratic authority was asserted to contest state policies, which demonstrated a form of reciprocity between the state and fatwas (Chapter 4). When the legal status of state fatwas was challenged as elements of secular and sacred laws collide, court decisions were contested through amended fatwas and related statements (Chapter 5). Over time as new forms of religious regulation were introduced to monitor religious teachings, state fatwas provided the

necessary expertise in drawing the boundary between what is and what is not acceptable in the Singapore state (Chapter 6).

In examining state fatwas' legal-bureaucratic and traditional-societal authority, it becomes apparent that both these forms of authority are crucial to achieve their maximum reach of religious influence. My case studies have shown that fatwa issuers exercise 'relational authority' to ensure fatwas' reverence in the Muslim community and relevance in the modern state, i.e. by switching between these forms of authority when it suits them. The combination of these forms of authority embody the key channels that keep fatwas revered and relevant today. Fatwa issuers possess the autonomy to engage either one of them according to what benefits their interest the most, for example by asserting legal relevance when dealing with the courts, and relying on societal influence when legal recognition is in deficit. In other words, multiple channels of authority allow state fatwas to circumvent state demands and legal restrictions, and directly assert their influence on the Muslim community.

In asserting religious authority through the legal-bureaucratic channel, state fatwas have to adhere to various laws. Although state fatwas rely on AMLA as a hard law instrument that grants them the necessary legal recognition, it is through soft law that fatwas are able to effectively penetrate and instruct the Muslim community. As mentioned in previous chapters, hard law refers to the explicit letter of the law, while soft law is a form of encouragement and discouragement that does not overtly rely on a written code, and represents a voluntary form of adherence.⁶⁸² Soft law is usually seen as a way to bolster hard written law, and thus functions as an extension to ensure the legal importance of hard law. In other words, both hard and soft laws are mutually reinforcing; if hard law necessitates legal devotion at its core, then soft law projects the peripheral communal pressure to abide by it.

However, in the case of state fatwas, the relationship between hard and soft laws are not always reinforcing; the explicit secular hard law (i.e. AMLA) that defines the legal boundary of state fatwas is not necessarily reflected in 'soft' official fatwas. That is because at their core, state fatwas adhere to two different forms of hard law: the secular law that grants it modern legal-bureaucratic relevance, as well as Islamic religious law.

⁶⁸² Rodley, 'Non-State Actors and Human Rights'; Piccone, 'The Future of the United Nations Special Procedures'.

My research shows that the hard law that state fatwas follow is closer to the Islamic religious law than the secular civil one. This denotes a crucial point that my thesis argues: that state fatwas represent religious demands more than anything else. This points towards the sectoral interests of Islamic religious elites, which as others have iterated can be narrowed down to “the expansion of religious institutions, the preservation of orthodoxy against ‘deviant’ ideas, and public morality.”⁶⁸³ Which is to say, this set of demands is based on the preservation of Islamic law and interpreted through state fatwas. Therefore when the formal legal-bureaucratic authority of fatwas is contested, the soft law characteristic becomes apparent. This soft law feature epitomises a vital way for state fatwas to retain their own interpretation of Islamic law, enabling them to inform Statist Islam beyond the secular legal-bureaucratic channel.

Before ending this section, I acknowledge that the assessment above was based on Singapore’s experience. However as I will demonstrate in the next part, traditional-societal and legal-bureaucratic forms of authority (and other concepts mentioned earlier) can be applied when analysing other countries as well, especially where fatwas are state-sanctioned and embedded within the larger legal and bureaucratic workings of the state.

3 Future Research Directions: Reassessing Old and New Contexts

By focusing on state-sanctioned religious decrees as an instrument of negotiation with the secular state, my thesis has implications on the way in which state fatwas are studied. Focusing the concepts of policy feedback and Statist Islam, my research provides news ways to analyse larger patterns of how religious elites resist and negotiate with the state.

An obvious arena of associated research is the survey of other fatwa institutions in similar contexts. This is not limited to Singapore’s closest neighbours such as Malaysia and Indonesia, but also where official fatwa bodies operate in non-Muslim milieus such as Thailand, and even Russia and Eastern European countries where muftis and fatwas possess some degree of legal-bureaucratic recognition. Thailand has a state-appointed religious position known as the Chularajamontri which oversees religious affairs and also issues fatwas.⁶⁸⁴ While this essentially makes the position

⁶⁸³ Pierret, *Religion and State in Syria*, 163–64.

⁶⁸⁴ Yusuf, ‘Islam and Democracy in Thailand: Reforming the Office of “Chularajamontri/Shaiikh Al-Islam”’.

similar to that of a state mufti, such influence is contested by religious elites especially in the restive South of the country.⁶⁸⁵ By comparing how state fatwas shape and dictate regional religious norms, Statist Islam can be applied to analyse the dominant religious praxis that represents these political contestations. It can also reveal the political restrictions (and advantages) that come with the position of the Chularajamontri. Moving beyond Southeast Asia, Russia has several muftiates which were originally sanctioned during the time of the tsarina Catherine the Great in the 18th century, and preserved by Stalin in the 20th century.⁶⁸⁶ Despite significant political changes there, these institutions persist today via a complicated relationship with the Russian government.⁶⁸⁷ Then there are countries such as Romania which do not directly sanction a fatwa institution, yet legally recognises such bodies as the sole representative of the Islamic faith and endows them with certain religious provisions and administrative authority through the law.⁶⁸⁸ In these cases, policy feedback can be invoked to conceptualise how formal legal and bureaucratic recognition of fatwas characterises the state-religious relationship.

While there is considerable potential to expand research on the countries I mentioned above, I will demonstrate how my thesis contributes to examining patterns of religio-political dynamics, and that is by briefly discussing the political relationship of fatwas in Malaysia and Indonesia. Before moving on, I have to note that for Malaysia, I opt for the term ‘official fatwas’ instead of ‘state fatwas’ to refer to state-sanctioned fatwas. This is because in Malaysia, ‘state fatwas’ can mean fatwas issued at the state level (as opposed to the federal level). ‘Official fatwas’ therefore is a catch-all term to refer to fatwas issued by any of these legally- and bureaucratically-recognised institutions.

The bureaucratic hierarchy of Malaysia’s federal fatwa body bears close resemblance to Singapore’s. However compared to Singapore, Malaysia’s religious bureaucracy involves an additional layer of political actor in the form of the monarchy. Furthermore, the population and political dynamic is different since Malaysia is a

⁶⁸⁵ Yegar, *Between Integration and Secession*; Yusuf, ‘Islam and Democracy in Thailand: Reforming the Office of “Chularajamontri/Shaykh Al-Islam”’; Imtiyaz Yusuf, ‘The Role of the Chularajamontri (Shaykh Al-Islam) in Resolving Ethno-Religious Conflict in Southern Thailand’, *The American Journal of Islamic Social Sciences* 27, no. 1 (2010): 31–53.

⁶⁸⁶ Yemelianova, ‘Russia’s Umma and Its Muftis’.

⁶⁸⁷ Yemelianova.

⁶⁸⁸ Nielsen, *Yearbook of Muslims in Europe*.

Muslim-majority country. But because Singapore's version of religious bureaucracy was inspired by Malaysia's system of religious management, it is natural to expand the same research theme to Malaysia.

Indonesia meanwhile represents a slightly different dynamic. Unlike its smaller neighbours where fatwa institutions are linked to state bureaucracy, Indonesia's highest-ranking fatwa body is somewhat separated from the state, and the relationship between the religious elites and state are starkly more complicated due to the political activism of fatwa-issuing bodies there. This can be attributed to the politically democratic dynamic in Indonesia, where the *reformasi* (reformation) movement of the late 1990s and the ousting of President Suharto initiated a process of democratic transition, something which cannot be said of Malaysia (until very recently) and Singapore. It is indeed a rare quality in Southeast Asian politics, which is why some observers call Indonesia "Southeast Asia's most democratic nation".⁶⁸⁹

But the most glaring similarities between Singapore, Malaysia, and Indonesia is rooted in their history and geography. Singapore's Muslim population is anchored to its larger, immediate neighbours. Family links between citizens of these countries are common, and more so the Islam they observe which share the same theological and jurisprudential schools. Singapore's own religious history is also entrenched in these neighbouring countries, with early generations of religious elites originating from Indonesia,⁶⁹⁰ as well as the muftis in peninsula Malaya filling the demand for fatwas from Singapore before an official fatwa body was established there.⁶⁹¹

Official fatwa institutions in these Muslim-majority countries provide authoritative religious instruction, while highlighting unique patterns of relationship with the state and society. I will provide a brief look into the unique characteristics of official fatwas in these countries and highlight the relationship of religious elites to the state. This sketches a brief outline of the amalgamation of religious and political interests through

⁶⁸⁹ Joe Cochrane, 'In Southeast Asia, Indonesia Is an Unlikely Role Model for Democracy', *The New York Times*, 20 December 2017, sec. World, <https://www.nytimes.com/2014/09/05/world/asia/in-southeast-asia-indonesia-becomes-a-role-model-for-democracy.html>.

⁶⁹⁰ For a biography of early Singapore's religious scholars, see Firdaus Yahya et al., *Obor Ummah: Jejak Tokoh Agama Islam Di Singapura [Torch of the Ummah: Tracing the Religious Figures of Singapore]* (Singapura: Persatuan Ulama dan Guru-Guru Agama Islam Singapura; Lembaga Biasiswa Kenangan Maulud, 2010).

⁶⁹¹ Syed Mohamed, 'Menyingkap Perkembangan Institusi Fatwa [Tracing the Development of the Fatwa Institution]'

official fatwas, through which an investigation of authoritative religious praxis can reveal the complexities of state-religious negotiations. This paves the way for future research to apply and develop the concept of Statist Islam in these countries.

3.1 Malaysia

Just like Singapore, Islam in Malaysia is embedded in the country's political history. From the advent of Islam in early Malayan history, to British colonisation, and then Malaysia's independence, there is no shortage of interaction between religion and politics. Unlike Singapore where the ruler was removed, a prominent legacy of pre-colonial era persists as today's religious authority in Malaysia lies with traditional Malay rulers. Although Malaysia practices a system of democratic constitutional monarchy in which elected representatives administer the federal government, traditional rulers are placed as the head of the Islamic faith both for the country and their respective states.

There is a total of fourteen muftis in Malaysia; one for each of the thirteen states, as well as a mufti representing the Federal Territories that is directly administered by the federal government. While the rulers are in charge of the religious affairs of their respective states, their authority at the federal level is embodied through the Majlis Kebangsaan Hal Ehwal Agama Islam or National Council for Islamic Affairs (MKI). Within the MKI, a fatwa committee was formed to enable the fourteen state muftis to collectively issue fatwas. This grouping of Malaysian muftis is typically referred to as the National Fatwa Committee.⁶⁹² This fatwa committee is supported by the federal religious institution known as JAKIM, which acts as its secretariat.⁶⁹³ JAKIM, the acronym for Jabatan Kemajuan Islam Malaysia or the Department of Islamic Development Malaysia, is the main religious bureaucracy established by the federal government to administer religious affairs. In other words, JAKIM is to Malaysia what MUIS is to Singapore.

I contend that the shaping of Statist Islam is unique to the set of circumstances in every country. Unlike in Singapore where the relationship between official fatwas and secular legal-bureaucratic demands depicts a contestation of two sets of distinct

⁶⁹² I will henceforth refer to the centralised Malaysian fatwa body as the National Fatwa Committee because of its ubiquitous use, despite objections from some quarters. See Asyraf Wajdi Dusuki, *Facebook*, 3 August 2016, <https://www.facebook.com/drasyrafwajdidusuki/posts/1384867401543303>.

⁶⁹³ Mohamed Azam Mohamed Aidil, 'Standardisation of Fatwa In Malaysia: Issues, Concerns And Expectations', *Islam and Civilisational Renewal (ICR)* 6, no. 2 (2015).

interests, in Malaysia it is fair to assume that the demands of fatwas and the state are often mutual. This is because of the intertwined state-religious relationship; promoting religious interests can shore up the legitimacy of the Malaysian government which appeals to the Muslim-majority electorate, while reinforcing the relevance of state-linked religious institutions. To understand the reason behind this, we have to trace the development of Islamic bureaucracy in post-colonial Malaysia. The bureaucratisation correlated with the Malaysian government's attempt to project a public image of piousness. The rise of religious activism known as *dakwah* movements in the 1970s, followed by political campaigns to attract voters through religious symbolisms in the 1980s resulted in the substantial co-optation of religious elites and the creation of new religious institutions in the state.⁶⁹⁴ This was also reinforced by federal-level religious projects and the revamp of various religious laws.⁶⁹⁵ As religious discourse became embedded in political agendas, the Prime Minister's department – which initially began as a secretariat to assist the rulers' management of religious affairs – also assumed more roles to manage religious affairs in the country. These developments allowed religious elites to expand their role in the state bureaucracy.⁶⁹⁶

Political credence and moral legitimacy in Malaysia thus became linked to religious symbolisms. The Malaysian government propagated top-down Islamic religious policies, including the creation of an Islamic university, policies endorsing Islamic values and virtues in the civil service, as well as support for Islamic banking and financial services, all which has a considerable effect on political incumbency. Individuals with strong religious appeal – embodied in the appointment of *dakwah* activists in important political positions – were co-opted and secured the roles of religious elites in the state bureaucracy. These contestations to appear more 'Islamic'

⁶⁹⁴ Liow, *Piety and Politics: Islamism in Contemporary Malaysia*; Mohamad, 'Legal-Bureaucratic Islam in Malaysia: Homogenizing and Ringfencing the Muslim Subject'; Kamarulnizam Abdullah, *The Politics of Islam in Contemporary Malaysia*, Series on Malaysian Politics (Bangi: Penerbit Universiti Kebangsaan Malaysia, 2002).

⁶⁹⁵ Kamali, 'Islamic Law in Malaysia'; Liow, *Piety and Politics: Islamism in Contemporary Malaysia*; Abbott and Gregorios-Pippas, 'Islamization in Malaysia'.

⁶⁹⁶ Mohamad, 'The Ascendance of Bureaucratic Islam and the Secularization of the Sharia in Malaysia'.

even saw both the Malaysian government and Islamist opposition claiming to be the torchbearer of a supposed 'Islamic state'.⁶⁹⁷

Therefore in Malaysia, promoting religious interests serves the political expediency of political parties, and further entrenches the functions of the religious bureaucracy. Exploiting religious agendas on the political front correlates with the development of the Islamic bureaucracy in Malaysia, and allowed the ascendance of religious elites who push religious agendas through state structures.⁶⁹⁸ This results in the expansion of Shariah statutes and cultivated religious bureaucrats as authoritative interpreters of Islamic law. These developments ultimately rooted the position of religious elites within state bureaucracy.

Official fatwas in Malaysia also benefited from the expansion of religious bureaucracy. However the capacity of official fatwas to affect religious praxis is more complex due to the state-federal dichotomy of religious administration which I mentioned earlier. Essentially, fatwas at the state level come under the jurisdiction of respective state rulers. At the national level, the National Fatwa Committee acts as an umbrella body that bands together state muftis. What this means is that for every religious question, there can be two sets of official fatwas (state and federal) that are issued. Also since fatwas are not binding unless gazetted, a fatwa that is gazetted at the state level might not be legally binding at the federal level, and vice versa. These differences can create contradictory official fatwas and generate legal discrepancies between them.

It has been observed that these differences can cause multiple official interpretations of a single issue.⁶⁹⁹ Yet despite conflicts at the state and federal levels, official fatwas still enjoy an elevated position compared to non-official fatwas. This stems from the formalised legal-bureaucratic authority that lends fatwas state-linked legitimacy, and bolsters their formal relevance and societal reverence. While individual official fatwas

⁶⁹⁷ In 2001, following pressures by the Islamic opposition Parti Islam Se-Malaysia (PAS), the Prime Minister Mahathir Mohamad publicly declared Malaysia an 'Islamic State'. PAS retaliated by releasing their own 'Islamic State' document in November 2003, however this backfired as it placed fears of a theocratic regime among voters. Mahathir's insistence that Malaysia was an Islamic state, vis-a-vis PAS' own claim, at best confused the Malay-Muslim voters as to who were actually more 'Islamic', and entrenched religious legitimacy in the political narrative.

⁶⁹⁸ Mohamad, 'Legal-Bureaucratic Islam in Malaysia: Homogenizing and Ringfencing the Muslim Subject'.

⁶⁹⁹ Aidil, 'Standardisation of Fatwa In Malaysia: Issues, Concerns And Expectations'.

may be at odds with each other, as a form of religious instruction, they command dominant religious authority in shaping religious praxis, and perpetuate religious policies that preserve their position in state and society. The combination of these factors then creates a form of Islamic praxis unique to Malaysia, i.e. Statist Islam.

Statist Islam in Malaysia is preserved through various measures. Where fatwas are concerned, some Malaysian states have long made it a legal offence to issue religious opinions that contradict fatwas,⁷⁰⁰ something which Singapore enacted only recently.⁷⁰¹ Official fatwas in Malaysia can also be legally binding on Muslim citizens and the Shariah court.⁷⁰² Furthermore, because Malaysia observes a parallel legal system where both civil and religious laws operate side by side, this defines a clear boundary between the jurisdiction of the secular civil court and Shariah court.⁷⁰³ This means that the civil court does not have jurisdiction over religious matters, and that gives official fatwas a powerful platform of dissemination by way of the Shariah courts. Unlike in Singapore where the civil court reigns supreme, Malaysian fatwas can be binding on Shariah courts and remain legally superior. This gives official fatwas in Malaysia a significantly higher capacity to legally coerce religious praxis through religious institutions.

Yet literature that discusses the politics of official fatwas in Malaysia is rather lacking. There is a tendency to focus on the administrative limitations of the fatwa-making process and not their political causes and consequences.⁷⁰⁴ Even those who take a critical view of religious bureaucracy have overlooked the political role of official fatwas.⁷⁰⁵ Therefore a large sample of academic research on fatwas in Malaysia emphasised on their constitutional and administrative limitations, differences in theological methodology, and also the varying background and composition of fatwa

⁷⁰⁰ Kamali, 'Islamic Law in Malaysia'.

⁷⁰¹ See Chapter 6.

⁷⁰² Kamali, 'Islamic Law in Malaysia'.

⁷⁰³ Kamali.

⁷⁰⁴ Abdul Rahim, 'Ijtihad Dalam Institusi Fatwa Di Malaysia: Satu Analisis [Ijtihad in Malaysia's Fatwa Institution: An Analysis]'; Ishak, *Fatwa Dalam Perundangan Islam [Fatwa in Islamic Legislation]*; Hasnan Kasan, 'Prosedur Mengeluar Dan Menguatkuasa Fatwa Di Semenanjung Malaysia [Fatwa Procedure and Enforcement in Peninsular Malaysia]', *Jurnal Undang-Undang Dan Masyarakat*, no. 10 (2006): 1–19.

⁷⁰⁵ Mohamad, 'The Ascendance of Bureaucratic Islam and the Secularization of the Sharia in Malaysia'; Mohamad, 'Legal-Bureaucratic Islam in Malaysia: Homogenizing and Ringfencing the Muslim Subject'.

committee members.⁷⁰⁶ Furthermore these writings often regard official fatwas (or even the religious bureaucracy) as an instrument that simply shore up the state's political legitimacy.⁷⁰⁷ Official fatwas are therefore not fairly evaluated as something that can *contest* the state, a familiar and overbearing theme that shapes the narrative in the discussion on state co-optation of religious elites and institutions.

What all these means is that in spite of claims of politicisation of fatwas in Malaysia by political actors,⁷⁰⁸ the dominant narrative is fixated on the instrumentalisation of religious institutions. There is thus a need to further explore *how* the bureaucratisation of religious institutions and ascendance of state-linked religious elites retain their authority in an ever-changing political landscape, with a clear emphasis on the role of official fatwas in this regard. Coming back to the concept of policy feedback, this cursory glance shows that official fatwas possess robust formal channels to affect, negotiate, and inform Statist Islam. Just as how the Shariah courts were assessed to negotiate cultural, societal, and statist interests,⁷⁰⁹ the embedded instructive role of official fatwas in Malaysia should be further scrutinised since they inherently function beyond the confined spaces of Shariah courtrooms. At the same time compared to Singapore, official fatwas in Malaysia operate in a largely favourable environment; not only does pervasive 'hard' legal-bureaucratic platforms such as the Syariah court facilitate their dissemination, their informal soft law channels that permeate various layers of the Muslim community is also another powerful tool.

Where Statist Islam is concerned, the strong presence of religious narrative in Malaysian politics chained religious institutions to political legitimacy, and catapulted them into symbols of political contestations. As political parties attract voters by claiming religious legitimacy and promising continued support of religious programmes, these religious institutions also benefit from such exercises. This increased their relevance in state bureaucracy and expanded their capacity for policy feedback, which then allows them to effectively capitalise on these formalised forms

⁷⁰⁶ Ahmad Hidayat Buang, 'Analisis Fatwa-Fatwa Semasa Syariah Di Malaysia [An Analysis of Contemporary Shariah Fatwas in Malaysia]'; Abdul Rahim, 'Ijtihad Dalam Institusi Fatwa Di Malaysia: Satu Analisis [Ijtihad in Malaysia's Fatwa Institution: An Analysis]'; Ishak, *Fatwa Dalam Perundangan Islam [Fatwa in Islamic Legislation]*; Kasan, *Institusi Fatwa Di Malaysia [The Fatwa Institution in Malaysia]*.

⁷⁰⁷ Hooker, 'Syariah Law in Contemporary Indonesia & Malaysia', 51.

⁷⁰⁸ Hooker, 51.

⁷⁰⁹ Peletz, *Islamic Modern*.

of legal-bureaucratic authority. However due to the embeddedness of official fatwas in various levels of bureaucracy, this also opens them to external influence as they are connected to a range of political actors. At the local state level, where the purview of religious affairs falls under the state monarch, each fatwa body has to answer to their respective rulers. At the federal level where official fatwas are grouped in a centralised bureaucratic body, their proximity to the federal government opens the door for political interference. And by being a part of the state bureaucracy, official fatwas that seemingly support government decisions are also attacked by opposition political parties.⁷¹⁰

To conclude this brief discussion on Malaysia, the role of official fatwas in politics and policies remains a fascinating, yet under-researched topic. This is where my research opens the door to explore the theme further, by expanding the literature on Malaysian fatwas to take into account their political and social relevance, and their impact on religious praxis. That is, by examining the role of official fatwas in shaping Statist Islam, and what that reveals in terms of political negotiations and even the preferences of Muslim voters.

3.2 Indonesia

Fatwa institutions in Malaysia and Singapore are sanctioned by the state, a feature shared by Brunei and even nearby Buddhist-majority Thailand. But for the world's most populous Muslim nation Indonesia, the official fatwa body provides a refreshing contrast to its neighbours.

Indonesia's key fatwa-issuing body is positioned within a religious institution that is somewhat separated from the state. The Majelis Ulama Indonesia, known by its acronym MUI, is an umbrella body made up of several key Islamic organisations in the country, including the most significant "modernist Muslim movement" in the country the Muhammadiyah, as well as the largest Islamic group in the world, the

⁷¹⁰ Aziz Jamaludin Mhd Tahir, 'Antara Fatwa Wajib Hadir, Fatwa Haram [Between Fatwas That Mandate and Prohibit Attendance]', *Utusan*, 11 May 2012, http://webcache.googleusercontent.com/search?q=cache:4rBXym98S2MJ:www.utusan.com.my/utusan/Rencana/20120511/re_06/Antara-fatwa-wajib-hadir-fatwa-haram+&cd=10&hl=en&ct=clnk&gl=uk&client=firefox-b-ab; Nurul Khaleeda Rashikin, 'Pas Dakwa Majlis Fatwa Kebangsaan Silap Hukum GST [PAS Claims Fatwa Council Mistaken on GST Ruling]', *Sinar Harian*, 1 May 2017, <http://www.sinarharian.com.my/politik/pas-dakwa-majlis-fatwa-kebangsaan-silap-hukum-gst-1.668015>.

Nahdlatul Ulama (NU).⁷¹¹ Between these two, their members total more than fifty million people.⁷¹²

Although the MUI is funded by the Indonesian government,⁷¹³ its formal link to the state is rather peculiar; it is not even considered to be a statutory board, rather a quango or quasi-autonomous non-governmental organisation.⁷¹⁴ Even those who categorise the MUI as a government institution concede that it does not necessarily share the same position as the state in religious matters.⁷¹⁵

While Indonesia does have a Ministry of Religious Affairs, it has been suggested that the function of the MUI is more significant “when it comes to the formation of policy on issues of Islamic legal tradition”.⁷¹⁶ MUI fatwas are also considered a source for drafting the state law in Indonesia.⁷¹⁷ Among the reason for MUI’s dominance is the role that it plays in unifying various massive and influential groups under its umbrella. While the Muhammadiyah and the NU possess their own fatwa-issuing arms, the MUI condenses these multiple religious opinions (which can at times be contradictory) through its own fatwa-issuing wing known as *Komisi Fatwa* or Fatwa Commission.⁷¹⁸

The degree of separation between MUI fatwas and the state means that they can avoid taking an overly-partisan political role. Yet state fatwas in Indonesia have been shown to serve strategic political interventions by putting pressure on Indonesian politicians and steering religious policy debates towards conservatism.⁷¹⁹ For example, prior to the Indonesian election in June 1999, the MUI issued a fatwa-like religious advisory on who to vote for, which inferred preference for Muslim candidates over non-Muslim ones.⁷²⁰ The popularity of that advice, which was covered on the front page of

⁷¹¹ Mark R Woodward, ‘Indonesia, Islam, and the Prospect for Democracy’, *SAIS Review* 21, no. 2 (2001): 29–37.

⁷¹² Woodward.

⁷¹³ Pradana Boy Zulian, *Fatwa in Indonesia: An Analysis of Dominant Legal Ideas and Mode of Thought of Fatwa-Making Agencies and Their Implications in the Post-New Order Period* (Amsterdam University Press, 2018).

⁷¹⁴ Lindsey, ‘Monopolising Islam’, 255.

⁷¹⁵ Kaptein, ‘The Voice of the ‘Ulamâ’: Fatwas and Religious Authority in Indonesia’.

⁷¹⁶ Lindsey, ‘Monopolising Islam’, 255.

⁷¹⁷ Hasyim, ‘Majelis Ulama Indonesia and Pluralism in Indonesia’.

⁷¹⁸ For a comparison between the fatwas issued by Muhammadiyah, Nahdlatul Ulama, and Majelis Ulama Indonesia, see Zulian, *Fatwa in Indonesia: An Analysis of Dominant Legal Ideas and Mode of Thought of Fatwa-Making Agencies and Their Implications in the Post-New Order Period*.

⁷¹⁹ Preston, ‘The “State Islam” Nexus: Islam and the State in Indonesia and Malaysia 1982-2008’;

Robet, ‘Perda, Fatwa and the Challenge to Secular Citizenship in Indonesia’; Mudzhar, ‘The Council of Indonesian ‘Ulamâ’ on Muslims’ Attendance at Christmas Celebrations’.

⁷²⁰ Kaptein, ‘The Voice of the ‘Ulamâ’: Fatwas and Religious Authority in Indonesia’.

newspapers, meant that certain political parties represented by non-Muslim candidates were placed at a disadvantage.⁷²¹ MUI fatwas also played significant role in addressing social issues.⁷²² They can also affect state decisions, as decades of fatwa development and amendments concerning family planning policies demonstrated. Menchik calls this the “co-evolution” between sacred and secular interests; the interactions between MUI fatwas and the secular Indonesian government led to the moderation of each other’s positions as both parties were taking cues from one another.⁷²³

The fatwas that MUI issues provide a useful insight into the concept of policy feedback as these religious elites, despite being bureaucratically excluded from the state, still managed to affect state decisions. A significant part of this can be attributed to Indonesia’s Muslim-majority electorate, large numbers of whom still place high reverence for traditional religious instruction. The groups that make up the MUI also provide additional social and political relevance that lends authority to MUI’s fatwas. To recapitulate, the MUI is made up of several religious organisations such as the Muhammadiyah and NU, both of whom constantly blur the line between religion and politics. The Muhammadiyah, although not officially linked to any political party, has members active in electoral politics who even formed political parties.⁷²⁴ The NU meanwhile is more directly involved in politics; between 1952 to 1973, it became a political party and had representation in the Indonesian cabinet. Even the current Indonesian president’s running mate for the 2019 presidential election is a prominent NU member and chair of the MUI. This cooperation, should it succeed, will create a fascinating dynamic and new channel of authority for not only MUI, but its fatwas as well.

There are claims that the political influence of these religious organisations has dwindled as their involvement in politics revealed corruption and rent-seeking behaviour.⁷²⁵ However at the local level, these organisations still retain strong

⁷²¹ Kaptein.

⁷²² Nadirsyah Hosen, ‘Behind the Scenes: Fatwas of Majelis Ulama Indonesia (1975–1998)’, *Journal of Islamic Studies* 15, no. 2 (2004): 147–79.

⁷²³ Menchik, ‘The Co-Evolution of Sacred and Secular’.

⁷²⁴ Eunsook Jung, ‘Islamic Organizations and Electoral Politics in Indonesia: The Case of Muhammadiyah’, *South East Asia Research* 22, no. 1 (2014): 73–86.

⁷²⁵ Robin Bush and Greg Fealy, ‘The Political Decline of Traditional Ulama in Indonesia: The State, Umma and Nahdlatul Ulama’, *Asian Journal of Social Science* 42, no. 5 (1 January 2014): 536–60, <https://doi.org/10.1163/15685314-04205004>.

relevance,⁷²⁶ which partly explains the appeal of having the MUI chair running for Indonesia's vice-presidency. MUI's influence at the local level can be attributed to its relationship to other mass-based religious organisations that it represents. Through the organisations that are present in the MUI, and their connections to Indonesia's social and political history, MUI fatwas therefore carry significant weight on the Muslim community. This in turn forces the state to take MUI's fatwas seriously, and ultimately places such fatwas at an advantageous position to affect state decisions. The MUI's role as the umbrella group of mass-based religious organisations is its strength, as this lends it the traditional-societal authority of the various groups it represents, which then enabled it to assert religious demands and shape state decisions, consequently shaping Statist Islam.

In this light, the democratic relationship between the state and the MUI is also present in the conventional narratives of policy feedback theory, which examines how policies – in this case religious ones – create new constituents who ultimately affect the direction of new policies. In Indonesia these constituents do not come under direct state control, and is therefore very different from the religious institutions of Singapore and Malaysia.

The way MUI fatwas shape and inform Statist Islam can therefore be examined through the sum of its parts, the religious influence and societal authority wielded by its member organisations as well as the MUI itself, all of which combine into significant traditional-societal authority. Despite the lack of a strong formal relationship with the state through proper legal-bureaucratic channels, MUI fatwas still possess sufficient collective authority for the state to consider them in its policy decisions. And should the chair of the MUI become the next vice-president of Indonesia, it is highly probable that MUI's fatwas will command even more authority in shaping state decisions.

3.3 Towards A More Nuanced State-Religious Analysis

The two countries I mentioned above are but examples of how the concepts applied in this thesis can be used to expand the research beyond the borders of Singapore. By focusing on the role of state-linked religious institutions, and more specifically state-sanctioned official fatwas, I have demonstrated that despite an already significant

⁷²⁶ Bush and Fealy.

research interest on religion and politics in Southeast Asia, there is still much room to expand this particular field by providing even more depth to existing studies.

Even with the wide range of literature on the state-religious relationship, this is a research field with promising room for growth. One key factor behind this is the constantly changing demands of society, driven by expanding democratisation and the emergence of new movements that directly challenge traditional forms of authority. While the state-religious alliance has somewhat been mutually beneficial in the post-colonial era of many nation-states, the changing political landscape is facilitating the creation of new coalitions to challenge traditional dominance. As these traditional political and religious actors seek to preserve their power so that they do not get drowned out by the changing currents, new forms of contestations emerge. This is where the next phase of state-religious relationship takes place, as the traditional forms of authority attempt to retain power amidst new political and social demands.

This is why the theme of state-religious relationship deserves continued scrutiny. Analysis of this relationship cannot be restricted to current political appointments or temporary political alliances. Rather we need to look at deep-seated changes that are taking place, those that represent the institutionalised long-term role of religious demands in the state and vice versa. This, to me, provides a more accurate indicator of ongoing state-religious negotiations and compromises which reveal the gradual, yet significant evolution of changes to come.

State fatwas provide an important facet of state-religious relationship because they demonstrate the reach of state and religious demands, as well as their consequences on existing institutional configurations. To fully scrutinise the role of state fatwas and explore new insights on state-religious negotiations, access to key materials is required. While I managed to do this by analysing minutes of meetings and interviews with members of the religious elites, similar researches can achieve this by looking at many other types of documentations, ranging from state archives to records of issued fatwas. This will provide a much more nuanced understanding on the function of co-opted religious institutions, their exact relationship to the state, and the resulting legal and bureaucratic consequences.

This thesis has shown that religious actors – especially those linked to the state – cannot necessarily be made to fit existing categories of religio-political activists as

assumed in the literature on Islamism and Post-Islamism. There are so many overlapping interests and negotiations taking place between independent religious movements and state-linked religious elites, and even the state. Therefore my research indirectly calls for newer, more nuanced templates of religious actors, and perhaps even an issue-based approach in analysing religious actors and institutions. This is especially useful to identify the boundaries of overlapping interests, especially since the fluid demands of activism at times can create new alliances in support for or against a particular cause.

The multi-disciplinary perspective in this thesis combined elements of political science and political sociology in order to conceptualise the empirical evidence. I have demonstrated how policy feedback can be applied to explain the intricate relationship that challenges the dominant narrative of one-way state-religious relations. Rather, this relationship is an amalgamation of formal instructions, informal negotiations, and unique lines of communications on segregated audiences, all of which result in a unique outcome on religious praxis, i.e. Statist Islam. Statist Islam proposes that the outcome of these negotiations is not always determined by a single set of demands, instead these initial instructions and decrees get filtered through layers upon layers of consultations and compromises. The resulting outcome – even in an authoritarian state that staunchly professes secularism – creates a unique form of authoritative religious praxis for a particular country. This praxis captures the outcome of legal and bureaucratic state-religious negotiations in the modern state.

4 Concluding Remarks

My thesis sets out questioning the role that fatwas play in an authoritarian secular state. At the informal level, many have already pointed to the potential that fatwas have in directing the religious orientation of Muslim communities.⁷²⁷ Although this is traditionally done through face-to-face consultations with Muslim individuals, the accessibility of the internet has also allowed fatwas to spread faster and further than ever before. This thesis also provided brief snapshots of how these new channels of dissemination allowed fatwas to become even more widespread, especially among

⁷²⁷ Menchik, 'The Co-Evolution of Sacred and Secular'; Skovgaard-Petersen, 'Fatwas in Print'; Masud, Messick, and Powers, *Islamic Legal Interpretation*.

pockets of Muslims who are physically removed from centralised religious authority, such as those living in the West.

But the focus of this thesis has always been the role of state fatwas in the modern state. If the internet can affect new ways for fatwas to find new audiences and relevance globally, then the modern state bureaucracy has a deeper impact on the local relevance of fatwas. Being a long-standing tradition among Muslims, the seat of the mufti evolved to become a public office in the medieval times, and is today linked to state power. While most observers took the position that the embedded role of state fatwas in the modern state bureaucracy is proof of instrumentalisation of religion, I qualified this assumption by demonstrating that this co-optation also created new ways to resist, and at times empowered fatwas, against state control. State-sanctioned fatwas therefore play a central role in these resistances and negotiations.

Finally, the thesis also suggests a need to examine, in more depth, the shifting narratives of the religious bureaucracy and how this relates to the agency of religious elites. My research provides a starting point by conceptualising the Singapore experience, which informs us about individual localised subjectivities, and also the way in which it represents a broader pattern of state-religious relationship in the modern nation-state. Moving beyond the contextual macro-analysis of fatwas, there is scope to extend the discussion on how, collectively, state fatwas substantively dictate the direction of Statist Islam in their respective countries. This can provide comparative developments and trajectories that occur in individual countries, which can then be analysed as a pattern of Statist Islam in broader contexts – not only in Southeast Asian and Middle Eastern countries, but also beyond that in other secular states.

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