

The Relationship of Culture and Islam in Fatwa National Sharia Board of Indonesian Ulama Assembly No: 107/Dsn- Muj/X/2016 Concerning Guidelines for Operating Hospital Based on Sharia Principles

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Abstract

The purpose of this study was to examine the relationship between culture and Islam in the fatwa of the National Sharia Council-Indonesian Ulama Council No: 107/dsn-muj/x/2016 concerning Guidelines for operating hospitals based on sharia principles. This is important to do because the harmony between culture and standardization of quality indicators of sharia hospital services will make sharia hospitals easily accepted in the community. The design of this research is Literature Review or literature review. Literature research is research conducted using literature (library), either in the form of books, notes, or reports on the results of previous research. The results of the research are almost entirely from the fatwa of the National Sharia Council-Indonesian Ulama Council No: 107/dsn-muj/x/2016 concerning Guidelines for operating hospitals based on sharia principles are closely related or in line with eastern Indonesian culture which upholds the culture of shame, the culture of helping, a culture of advising each other and a culture of clean living.

Keywords: Sharia Hospital, Culture, Sharia Principles

Introduction

The National Sharia Council-Indonesian Ulama Council issued fatwa No: 107/Dsn-Muj/X/2016 concerning Guidelines for Hospital Operations Based on Sharia Principles in Indonesia¹, but is the fatwa issued also in accordance with eastern Indonesian culture or culture, which in fact highly upholds cultural values? Or the entire content of the fatwa is only seen from the aspect of conformity with Islamic sharia. This is important to study so that sharia hospitals are easily accepted in the community, because Indonesia, apart from being a Muslim-majority society, is a country that is thick with culture.

The establishment of a sharia hospital is expected not only to provide medical assistance for sick patients but also to provide hospital services based on sharia principles, become symbols of the Islamic religion and encourage a sharia-based economy in Indonesia. principal to sharia law, then this will certainly make it difficult for the community to accept the sharia hospital.

For example, in the quality indicators of the standard aspects of sharia hospital services, it is said that the scheduling of operations should not clash with prayer times, then how is the treatment of sharia hospitals if there are patients who urgently need help during prayer times? While it is known that Indonesia is known for its culture of mutual help, should medical personnel delay helping patients and go to prayer to worship Allah or put patients in need of help first?

Another example, the installation of a catheter in a sharia hospital must be in accordance with gender / gender, so what if under certain conditions, for example a male medical worker is resting while there are female patients who have to install a catheter, how does a sharia hospital view this and how does it relate? with the culture of shame that exists in Indonesia?

¹ National Sharia Council, "DSN MUI Fatwa No. 107/DSN-MUI/X/2016 concerning Guidelines for Hospital Operations Based on Sharia Principles, Jakarta, Indonesian Ulama Council," 2016.

There are still many other examples that need to be investigated regarding the relationship between eastern Indonesian culture and standardization of sharia hospital services such as the use of drugs containing substances that are forbidden in Islam, patients using mystical objects in hospitals, even the most principal example is about faith, where one indicator of the quality of sharia hospital services is to provide assistance or talkin for patients who are dying, what if the patients treated at the hospital are non-Muslim patients, how is the treatment of sharia hospitals towards non-Muslims, while as is known the attitude of respect and giving freedom to choose religious beliefs is part of Indonesian culture.

Literature Review

Sharia Hospital

Sharia Hospital is a hospital which in its management is based on maqashid sharia (the purpose of sharia), namely the protection of religion, soul, lineage, reason and protection of property. Sharia Hospitals are implemented based on the Fatwa of the National Sharia Council of the Indonesian Ulema Council No. 107/DSN-MUI/X/2016 concerning Guidelines for Hospital Operations based on sharia principles.² Sharia hospitals are implemented based on the Fatwa of the National Sharia Council of the Indonesian Ulema Council and have four main characters in Islamic services, namely rabbaniyah, akhlaqiyah, waqi'iyah and insaniyah.³

A hospital can be called a sharia hospital if the hospital has obtained certification from the National Sharia Council of the Indonesian Ulema Council (DSN-MUI). Sharia hospitals can operate by implementing all operational standards of sharia hospitals that have been certified by DSN-MUI. The operational standards of a certified sharia hospital are listed in the DSN-MUI fatwa no. 107/DSN-MUI/X/2016 regarding the operation of hospitals based on sharia principles

Culture

Etymologically the word "culture" or "culture" in English comes from the Latin "colere" which means "cultivating" or "doing" something related to nature (cultivation). In Indonesian, the word culture (nominalization: culture) comes from the Sanskrit "buddhayah" which is the plural form of the word buddhi (mind or reason). Another explanation about the etymology of the word "culture" is as a development of the compound word "cultivation" which means the empowerment of the mind in the form of creativity, work and initiative.⁴

According to Moleong Culture is a way of life that develops and is shared by a group of people and is passed down from generation to generation. Culture is formed from many complex elements, including religious and political systems, customs, languages, tools, clothing, buildings, and works of art to understand phenomena about what the research subjects experience holistically, and by means of descriptions in the form of words. and language in a special context that is natural and by utilizing various natural methods⁵

Focus of Study

The focus of this study is on the relationship between culture and Islam with the Fatwa of the National Sharia Council-Indonesian Ulema Council No:107/Dsn-Muj/X/2016 concerning Guidelines for Hospital Operations Based on Sharia Principles

² MUKISI, "Guidelines for Minimum Service Standards for Sharia Hospitals and Sharia Compulsory Quality Indicators," The All-Indonesian Islamic Health Efforts Council (MUKISI) (2017).

³ Arlina Dhian Sulistyowati, Sri Handayani, and Kasih Nursanti, "Overview of the Implementation of Sharia Quality Indicators for Nurses at the Yogyakarta Islamic Hospital PDHI," *Journal of Nursing Leadership and Management* 2, no. 1 (2019): 1–8.

⁴ Kusherdyana.R, "Understanding Culture, Cross-Culturalism, and The Theories Underlying Cross-Culturalism," *Cross-Cultural Understanding* (2018): 48.

⁵ Mintassrihardi Mintassrihardi, Selva Selva, and Nurlaila Fitriyah, "Impact of the Entry of Foreign Tourists on the Indigenous Culture of Communities Around the Lakey Beach Location, Hu'u Village, Dompu Regency," *JIAP (Journal of Public Administration)* 6, no. 2 (2019): 124.

Research Methodology

The design of this research is Literature Review or literature review. Library research is research carried out using literature (library), both in the form of books, notes, and reports of previous research results⁶

The nature of this research is descriptive analysis, namely the regular breakdown of the data that has been obtained, then understanding and explanation are given so that it can be understood well by the reader.

The data collection technique used in this research is through several ways such as identification of books, journal articles, and websites as well as other sources that are related to the research theme. Through this research technique the steps that then need to be carried out are collecting existing data either through books, scientific articles or websites and other sources. Furthermore, an analysis of the data obtained is carried out so that an assessment of the problem can be carried out through this research.

Results And Discussion

In the Fatwa of the National Sharia Council-Indonesian Ulema Council No:107/Dsn-Muj/X/2016 concerning Guidelines for Hospital Operations Based on Sharia Principles, it consists of 8 (eight) provisions, namely:⁷

Provision	about
Condition 1	General requirements
Condition 2	Rule of law
Condition 3	Provisions regarding Contracts and Legal Personnel
Condition 4	Conditions related to Akad
Condition 5	Terms of Service
Condition 6	Provisions regarding the Use of Drugs, Food, Beverages, Cosmetics, and Goods
Rule 7	Provisions regarding the Placement, Use and Development of Hospital Funds
Condition 8	Closing

General Provisions

In general provisions, it is conveyed regarding the meaning of terms that may appear related to hospitals and sharia, such as the definition of hospital, health worker, supplier of medical devices, drugs, Drug suppliers, hospital services, patients, patient in charge, negligence, as well as understanding of contracts and types of contracts such as

⁶ Hassan. Iqbal, Research Data Analysis With Statistics (Jakarta: Bumi Aksara, 2008).

⁷ National, "DSN MUI Fatwa No. 107/DSN-MUI/X/2016 concerning Guidelines for Hospital Operations Based on Sharia Principles, Jakarta, Indonesian Ulema Council."

ijarah contracts, Ijarah Muntahiyah bit Tamlik contracts, Bai' (buying and selling) contracts, Mudharabah contracts, Musyarakah Mutanaqishah contracts, Akad wakalah bi al-ujrah, Informed Consent (Medical Action Agreement), Clinical Practice Guide (PPK), Clinical Pathway (Clinical Pathway), so that this chapter has nothing to do with culture because it only conveys the meaning of the term.

Legal provisions

In the Legal Provisions it was stated "Hospital operation based on sharia principles must follow the provisions contained in the fatwa of the National Sharia Council-Indonesian Ulema Council No:107/Dsn-Muj/X/2016 concerning Guidelines for Hospital Operations Based on Sharia Principles" and its relation to our culture is that eastern culture complies with applicable regulations and does not disobey. Community legal awareness as an embodiment of the legal culture of the community must continue to be instilled so that community compliance with the law can be continuously improved. In this legal culture, it can be seen that a tradition of people's daily behavior is in line with and reflects the will of the law or legal signs that have been set to apply to all legal subjects in the life of the nation and state.⁸

Provisions regarding the Contract and Legal Personnel

In the third provision, it is conveyed regarding the types of contracts used in sharia hospitals including:

- Contract between Hospital and Health Workers
- Contract between Hospital and Patient
- Contracts between Hospitals with Medical Equipment Suppliers and Laboratory Equipment Suppliers which can be in the form of: Ijarah contract, bai contract, mudharabah contract, and musyarakah mutanaqishah contract.
- Contracts between hospitals and drug suppliers can be in the form of: bai' and wakalah bi al-ujrah contracts;

The relationship between contracts and eastern culture is related to the culture of transparency, that everyone wants a clear contract in carrying out a transaction and this is what causes contract law or agreement to be very important, considering that through agreement law will give birth to business transactions that are far from the elements such as gambling (maysir), obscurity (gharar), bribery (risywah), interest (riba) and falsehood⁹

Conditions related to Akad

In the fourth provision, it is conveyed regarding provisions related to contracts and references to DSN-MUI fatwas which are referred to and related to their respective contracts, related to eastern Indonesian culture where the contract according to Western society is a legal document in which all the facts and obligations are poured into it. If a dispute arises the parties will return to the contract they made. Traditional Eastern societies regard the contract as a symbol of cooperation, not a legal document. If there is a dispute, they do not return to the contract but try to resolve the dispute by deliberation. Therefore, trust and good faith play an important role. "Trust the people rather than the paper"¹⁰

Terms of Service

There are 13 (thirteen) points contained in the provisions related to services that must be carried out in sharia hospitals relating to the obligations and responsibilities of sharia hospitals regarding services. To monitor this, Mukisi and the Indonesian National Sharia Council have compiled the Standard Sharia Hospital Certification Instrument

⁸ Ellya Rosana, "Legal Compliance as a Form of Public Legal Awareness," Tapis Journal: Journal of Islamic Political Aspirations Teropong 10, no. 1 (2014): 61–84.

⁹ Abdul Ghofur Anshori, Islamic Treaty Law in Indonesia: Concept, Regulation, and Implementation (UGM PRESS, 2018).

¹⁰ Agus Sardjono, "Covenant Law: Between Norms and Their Implementation," Journal of Law & Development 24, no. 3 (1994): 224.

Version 1438. One of the standards in Sharia Hospital Certification is the existence of minimum services that must be carried out in sharia hospitals as well as a requirement for hospitals that want to take certification.

The scope of this Sharia Hospital Minimum Service Standard Guidelines regulates matters relating to:

- Maintaining the patient's faith during illness,
- Ease of worship for patients in the hospital,
- patient hijab care,
- patient care,
- the hospital's obligation to improve the competence of human resources in guiding, educating and inviting patients to perform worship while undergoing examination and treatment at the hospital¹¹

The indicators in the Minimum Service Standards for Sharia Hospitals include:

1. Read basmallah before doing activities and actions

Hospital staff verbally read and invite patients/patient families to read basmallah before administering medication and taking action, this indicator is very in line with Indonesian culture, which is to start something with a good thing.

2. Hijab for patients.

Provision of hospital facilities in the form of a hijab (veil, patient clothes or cloth) that covers the patient's genitalia throughout the body except the face and palms, Hijab is prepared by the hospital, clothing for Muslim patients when they first come by being given education about hijab, this is also in accordance with Indonesian culture about dressing neatly and politely.

3. Mandatory training for patient fiqh

Learning activities for employees about taharah, prayer guidance for patients and Talqin.

4. The existence of Islamic Education (Leaflets or spiritual books)

Provision and provision of Islamic educational facilities in the form of leaflets or spiritual books to Muslim patients. ECG installation according to Gender. Implementation of ECG installation by officers according to the gender of the patient.

5. Wearing Hijab for Breastfeeding Mothers

Provision of hospital facilities in the form of special for nursing mothers, activities of hospital staff inviting (educational) and wearing special clothes for nursing mothers.

1. Use of Hijab in the operating room

Provision of hospital facilities in the form of clothes (and veils for Muslim patients), the use of hijab in the operating room which covers the genitals of patients undergoing surgery from preparation to discharge from the operating room.

2. Operation scheduling does not collide with prayer times

Scheduling elective surgery that does not conflict with prayer times is scheduling operations that do not exceed prayer times in such a way that there is no need to offer prayers unless it is an emergency.

Regarding the hijab for patients, special clothes for nursing mothers and special clothes for patients who are operated on, which are applied in sharia hospitals, they are actually very closely related to eastern culture, which dresses modestly and privately. Her nakedness. Intellect will give instructions to humans to feel ashamed to show what is considered taboo and should not be seen by others. So that even without religious orders, humans will act like that. Religion came only to reaffirm the matter of covering the aurat. At the same time giving and clarifying the boundaries that are considered as something taboo. What was considered a taboo subject like genitalia in ancient times, may not be considered taboo anymore today. The same applies to cultural issues in an area. This is where religion patents the issue of genitalia by giving instructions on the boundaries that are considered taboo and should

¹¹ MUKISI, "Guidelines for Minimum Service Standards for Sharia Hospitals and Sharia Compulsory Quality Indicators."

be covered.¹² The insertion of a catheter is also actually related to the culture of shame that exists in Indonesia, so it must be done by the same sex, but in an emergency situation it is allowed.

The culture of patience and mutual advice among others is a reflection of service indicators related to the third and fourth indicators, namely Mandatory Training for patient fiqh and Islamic Education (Leaflets or spiritual books). In a sharia hospital, every patient is given the science of jurisprudence and advised by an ustad or medical expert who understands religion, so that the patient does not grumble and complain in the face of illness, then the patient will be advised and taught that illness is a forgiver of sins and elevation for humans. In addition, patients will be given readings in the form of spiritual books to fill their spare time. Brotherhood in Islam is not materially oriented but divinely oriented. Among them is by advising each other on the path of truth.¹³

Furthermore, for non-Muslim patients, there is no need to worry that the Sharia Hospital also provides health services for non-Muslim communities and provides the best service for non-Muslim patients who seek treatment at sharia hospitals. dr. H. Sagiran, Sp.B (K) KL., M.Kes. who is the Chairman of the Central MUKISI Sharia Hospital, stated that there is no discrimination in terms of service for patients with Muslim and non-Muslim status in sharia hospitals. "Non-Muslim patients are still served in accordance with applicable health service standards. Without being discriminated against by ignoring the quality of service. Non-Muslim patients have the right to refuse services that they feel are not in accordance with their beliefs."¹⁴

Furthermore, the eighth indicator in the Minimum Service Standards for Sharia Hospitals is that the Operation Scheduling does not collide with prayer times, but in the last sentence it has been clearly stated that this is excluded when in an emergency, this attitude of putting others ahead of oneself is usually called *Itsar*. itself is very thick with Indonesian culture, namely please help.¹⁵

Provisions regarding the Use of Drugs, Food, Beverages, Cosmetics, and Goods

There are 3 (three) important points in the 6th (six) provisions of the National Sharia Council-Indonesian Ulema Council No:107/Dsn-Muj/X/2016 concerning Guidelines for Hospital Operations Based on Sharia Principles, namely:

1. Hospitals are required to use medicines, food, beverages, cosmetics, and halal goods that have received Halal certificates from the Indonesian Ulema Council (MUI);
2. If the drug used has not received a Halal certificate from MUI, then it is permissible to use drugs that do not contain haram elements;
3. In a forced condition (emergency), the use of drugs containing unlawful elements is required to carry out an informed consent procedure. Or delivery of information from a doctor or nurse to a patient before a medical action is carried out

These three points answer questions on the background of the problem regarding the use of drugs, food and drinks in sharia hospitals, the relation with eastern Indonesian culture is that the culture of living clean, healthy and consuming halal and *toyib* food is a culture in Indonesia. Even the Malay people who are very affiliated with Islam and greatly glorify the divinity of Allah SWT of course really care for their food only on halal and *thoyyib*. Malay

¹² Sefti Efriana, "VEIL AS A RELIGIOUS AND CULTURAL PHENOMENON (Interpretation of the Reasons for Students of the Faculty of Tarbiyah and Teacher Training at the Raden Fatah State Islamic University in Palembang in Choosing the Hijab) POSTGRADUATE PROGRAM OF THE STATE ISLAMIC UNIVERSITY (UIN) RADEN FATAH PALEMB" (2016): 1–63.

¹³ Suparta Suparta, "The Values of Islamic Education in the Unbearable Culture and Their Implications for Community Solidarity in Mendo Barat District, Bangka Regency," *Madania: Journal of Islamic Studies* 21, no. 1 (2017): 101.

¹⁴ Admin-mukisi, "Non-Muslim Patients Don't Need To Worry About Treatment At Sharia Hospitals," last modified 2018, <https://mukisi.com/523/patient-non-muslim-tak-perlu-khatir-berobat-di-rs-syariah/>.

¹⁵ Fina Hidayati, "The Concept of Altruism in the Perspective of Islamic Religious Teaching (ITSAR)," *Psychoislamika: Journal of Psychology and Islamic Psychology* 13, no. 1 (2016): 59.

Muslim civilization in the past must have been very concerned about what they eat and how to obtain it so that it is always in accordance with Islamic guidelines.¹⁶

Provisions regarding the Placement, Use and Development of Hospital Funds

The relation of this provision to eastern Indonesian culture is that hospitals are required to have guidelines for managing zakat, infaq, alms, and waqf funds so that the use of funds and the development of sharia hospital funds can benefit many people. This also reflects the culture of mutual help which is the eastern culture of Indonesia.

Conclusion

1. Islamic Sharia and culture are two different elements, but in reality they are practiced simultaneously in a process so that sometimes they have the same meaning and are interrelated.
2. Fatwa of the National Sharia Council-Indonesian Ulema Council No:107/Dsn-Muj/X/2016 Concerning Guidelines for Hospital Operations Based on Sharia Principles consists of 8 (eight) provisions which in general have links that are in line with eastern Indonesian culture.

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¹⁶ Edison Edison and Rini Lestari, "The Concept of Halal Food and Thoyyib in the Tradition of the Riau Malay Society," *Fikri: Journal of Religious, Social and Cultural Studies* (2020): 247–257.

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