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# Negotiating Statist Islam: *Fatwa* and State Policy in Singapore

Afif Pasuni

**Abstract:** This article examines how state-linked religious actors negotiate religious demands in a secular authoritarian state. There is a prevalent assumption that such religious actors lack the agency to affect state decisions. I do not seek to challenge that proposition, rather to qualify it by identifying the scope and extent of their authority. Taking the state as an autonomous actor, I examine *fatwas* or official religious edicts in Singapore through the lens of ‘policy feedback’, which analyses how the bureaucratisation of religious institution created new legal and bureaucratic channels that shape state policies. This paper aims to primarily answer the following question: What role do *fatwas* play in shaping statist interpretation of religion? I answer this by looking at the historical development of religious bureaucracy in Singapore – which includes the *fatwa* institution – and analysing the role of *fatwas* in relation to state policies. I argue that the bureaucratisation of religion not only regulates religious demands, but creates a juncture for religious institutions to inform and contest statist version of Islam through policy feedback, a concept that has thus far been only partially applied to economic issues. Policy feedback explains how religious demands are negotiated at the bureaucratic level and is particularly instructive in clarifying the discourse between the state and the *fatwa* institutions, which underlines that the policies and programmes of the autonomous state can be influenced by the very demands of religious bureaucrats. This paper also introduces Statist Islam as an original concept with which to conceptualise the amalgamation of statist and religious interests, and considers how the informal authority of *fatwas* continues to function beyond the legal and bureaucratic restrictions set by the state.

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**Keywords:** Singapore, Islam, *fatwa*, policy feedback, statist Islam

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## Introduction

A *fatwa* is an expert opinion or religious ruling issued by a religious expert called a *mufti*. *Fatwa* represents a long-standing tradition in Muslim orthodoxy and orthodoxy that remains persistent throughout changes not only in time, but also in different political milieus (Masud, Messick, and Powers 1996; Skovgaard-Petersen 1997; Rahim 2006; Roff 1983).<sup>1</sup> As a form of religious instruction, *fatwas*<sup>2</sup> are not merely restricted to religious rituals but also regulate normative Muslim behaviour in daily life. This covers privately observed rites, as well as a diverse range of issues such as social conduct, financial transactions and environmental and political concerns. There are *fatwas* addressing whether Muslims should join social gatherings that serve alcoholic drinks or open bank accounts that give out interest (interest is prohibited in Islam), or whether Bitcoin transactions are permitted. *Fatwas* also regulate how Muslims interact with the state and politics; there are many *fatwas* vital to state agenda, and some have gone so far as to support a country's foreign policy (Haddad 1996).

The primary function of a *fatwa* is to answer religious questions. The person who issues a *fatwa*, the *mufti*, is regarded as a religious scholar. The appointment of *muftis* is not necessarily a formal process. In a small town, for example, the religious leader of the local mosque may double as a *mufti* by default. There are also self-proclaimed *fatwa* institutions in large cities that have considerable Muslim populations,<sup>3</sup> just as there are transnational *fatwa* bodies that endeavour to inform religious praxis across a wider scale of Muslim communities.<sup>4</sup> As various *muftis* make their *fatwas* available online, *fatwa*-seekers can simply key in search terms to find instant answers to their religious queries. Due to the diverse range of *fatwas* available today, and easy access to them, a phenomenon known as 'fatwa-shopping' emerges as questioners simply pick and choose *fatwas*

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2 For this paper, I will use the term *fatwas* to indicate the plural of *fatwa*. An alternative spelling often found is *fatāwā*.

3 In the case of England, there are the London Fatwa Council, as well as Darul Iftaa (lit. Fatwa Office) in Birmingham and Leicester. Many individual *muftis* and religious institutions also run their own websites that provide *fatwas* online.

4 A notable example here is the European Council for Fatwa and Research, which is based in Dublin.

that suit their needs (Hosen 2008; Zaman 2008). *Fatwa*-shopping is not only made possible by the ubiquity of *fatwas* but, more importantly, the voluntary, non-binding nature of *fatwas*, which places the onus of choice on the petitioner's own proclivity.

The vast variety of religious opinions and its popularity should not hinder another important dimension of *muftis* and *fatwas*: one that links them to the state or, more specifically, state resources. This is especially true in countries where *muftis* are sanctioned by the state, giving their positions legal recognition and bureaucratic access. Today, the appointment of a *mufti* is a typical practice for many Muslim-majority countries. Some countries have more than one *mufti*, each assigned to handle religious matters in a particular province. In countries such as Saudi Arabia and Syria, a grand *mufti* is appointed, in addition to the provincial *muftis*. Other countries, such as Malaysia and Indonesia, adopt a collective system in which *muftis* representing various regions and groups meet regularly to issue *fatwas* (Lindsey and Steiner 2012b). In Brunei and Singapore, the state appoints one *mufti* who leads a *fatwa* committee, which assists in deliberating *fatwas* (Müller 2015 and his article in this special issue; Lindsey and Steiner 2012a). Singapore, the focus of this article, is a Muslim-minority country led by a secular government, yet the *mufti* and *fatwa* are legally recognised and bureaucratically embedded in the state (see also Steiner 2015 and her article in this special issue).

For some observers, the appointment of *muftis* by the state, which was made possible by the bureaucratisation of religion, greatly curtails their independence (Hooker 2002; Steiner 2015). I seek to qualify this assumption by analysing the functions of state-sanctioned *fatwas*, specifically in Singapore where the *fatwa* institution is embedded in the state, both bureaucratically and legally. This macro-analysis allows me to examine the extent to which state control is pervasive, and what, if anything, *fatwas* do to mitigate this effect.

The making of *fatwa* is an interesting topic because religion and religious institutions remain central to nation-building projects in post-colonial states of Muslim-majority countries (Hefner 1997; Liow 2009; Nasr 2001; Al-Kandari and Dashti 2014). Yet, as some have argued, Islamisation projects through the bureaucratisation of Islamic institutions are not simply a top-down process but might result in unintended consequences for the state as religious symbolisms and meanings get appropriated by social actors (Sloane-White 2017; Müller 2015, 2018). *Fatwas* are central to these projects because they can define or at least inform the authoritative normative position of Islamic religious practices for Muslims (Skovgaard-Petersen 1997; Masud, Messick, and Powers

1996; Kaptein 2004; Robet 2010; Müller 2015). In Indonesia, for example, where *fatwas* have no legal standing, they have been shown to “constitute an important form of dialogue” between the state and religious interests (Hooker 2003: 87), if not influence state policies (Menchik 2014; Hasyim 2015). As *fatwas* address a diverse range of issues related to everyday life – ranging from daily rituals to banking practices to political legitimacy – their relevance is not restricted to Muslim-majority countries, but even places where Muslims form the minority, such as Europe and North America (Zaman 2008; Bowen 2004; Bunt 2003).

As a Muslim-minority country, Singapore provides a fascinating case study because the island was formerly part of the Johore Sultanate located in the south of Malaysia, and therefore shares similar historical background with it.<sup>5</sup> The sultanate was led by a Muslim and, to some extent, observed Islamic law (Milner 1981; Milner 1988). In 1824, five years after the British arrived, Singapore was ceded to the British East India Company. Under colonial rule, secular law superseded Islamic law, although segments of it were exempted, specifically Islamic marriage, divorce, and inheritance laws (Lindsey and Steiner 2012a: 19). The population of Singapore also changed over time, and the native Malays (who today are mostly Muslims) were outnumbered in the decades that followed. In recent times, Singapore has been described as an intriguing case of “double minority”: Muslims are a minority in the country yet a majority in the immediate region, while non-Muslims are the majority in Singapore yet a minority in the region (Mauzy and Milne 2002: 100). Muslims make up roughly 15 per cent of the 5.6 million people in Singapore (Census of Population 2010). With a history intertwined in Malay and Islamic influences, as well as an immediate vicinity to neighbouring Muslim-majority countries of Indonesia, Malaysia, and Brunei, the assertion of secular politics is complicated by fluid religious demands (Steiner 2011).

Southeast Asian countries have a reputation for domesticating religion in nation-building projects. A great deal of the literature on Southeast Asian politics takes the authoritarian (or ‘pseudo-authoritarian’/ semi-democratic) state as its starting point, and discusses the state in largely secular terms whilst simultaneously downplaying the significance of religion to political institution building and the production of state legitimacy (Case 2004; Hamayotsu 2002; Hefner 2005; Rodan and

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5 The Johore Sultanate reigned over the southern Malaysian state of Johor, which at that time included Singapore. In the constitutional monarchy of Malaysia today, the sultan represents one of the nine traditional rulers who still retain some power over their respective states, especially in traditional and religious affairs.

Hughes 2014; Turner 2014). In Buddhist Thailand, the co-optation of the sangha is a key project that gave legitimacy to political elites (Hamayotsu 2008: 175). Similar observations were recorded in Myanmar and Cambodia (Keyes 1971; McCargo 2009; Schober 2011; Singh 2011). Meanwhile, in Muslim-majority Indonesia and Malaysia, the use of religion to garner political support is also not uncommon (Liow 2009; Noor 2004; Singh 2011; Mohamad 2010b; Hooker 2003). Mobilising Islam and Buddhism in Southeast Asia was even compared to how secularism was invoked in the West for political gain (Hefner 1997; Hamayotsu 2008).<sup>6</sup>

As such, the institutionalisation of religion is seen as a way for the state to manage and control religious demands. For the Muslim-majority countries of Southeast Asia, these co-optations are embodied in the religious bureaucracy, which includes *shariah* courts and *fatwa* institutions. A common theme is the instrumentalist narrative of religion that regards the state as the actor behind state-driven religious projects. Due to the proximity of *fatwa* institutions to the state, these institutions have been described not merely as “co-opted”, but “totally politicized” (Hooker 2002).

However, the bureaucratically – and legally – accorded religious institutions can also become a channel that affects change through ‘policy feedback’ by negotiating demands that consequently shape state decisions (Skocpol 1992; Skocpol 2008). Conceptually, the institutions represent a product of “state-building” as “powerful bureaucratic constituencies” emerge to “play a major political role in policy making” (Béland 2010: 571). In other words, policy feedback accounts for the agency of other actors in affecting state decisions as policies are taken “not just as political outcomes, but also as factors that set political forces in motion and shape political agency” (Béland 2010: 571).

Therefore, it is pertinent to note that the narrative of state control over religious institutions is increasingly being challenged by more tempered analysis as some observers begin to identify the agency of religious actors in state-sanctioned religious projects (Mohamad 2010b; Abdullah 2013; Peletz 2002; Lindsey and Steiner 2012a and 2012b; Müller 2015). For example, Mohamad (2010b) credited religious actors within the religious bureaucracy for state-sanctioned religious projects, which was made possible by their co-optation to legitimise political authority. This

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6 There is a 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 (Asad 1993; Anjum 2007).



mediated the position of religious bureaucracy between the state and society, such as *shariat* courts, and have proved helpful in negotiating and compromising between contradictory societal and cultural discourses (Peletz 2002). Abdullah's (2013: 1184) investigation of religious actors in Singapore's religious bureaucracy posited that state cooptation is a complex matter that does not necessarily depict a one-sided agreement, as the religious actors chose to engage the state with "larger end goals in mind" and "use their position vis-à-vis the state to their own advantage". These discussions went beyond the assumption that argued for the extensive reach of the state in religious institutions, and the present paper builds on this. The state-religion contestation manifests in a unique projection of interests that I call Statist Islam, which depicts how state decisions are accentuated by religious demands.

The remainder of this article is structured into four parts. The first part provides a brief theoretical overview of the paper. Part two will analyse colonial and post-colonial developments of religious bureaucracy in Singapore, including two key events – the 1880 Mohammedan Marriage Ordinance and the 1966 Administration of Muslim Law Act (AMLA) – that formally established the state-linked *fatwa* institution. The third part looks at two case studies on how *fatwas* engaged with state policies. The final part concludes by assessing how the bureaucratisation of the *fatwa* institution allowed it to contest state depiction of religious praxis, and cemented the relevance of *fatwas* in state and society.

## 1 Configuring Statist Islam

A key factor behind statist intervention of religion in Southeast Asia is underpinned in the conception of the autonomous state. The concept of an autonomous state refers to the notion that the state should be taken beyond an arena of contestation, but as an autonomous actor in itself. Building on the Weberian notion that emphasises state centrality, Skocpol posited the state as an 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" (Skocpol 1985: 9). Recognising the autonomy of political actors is especially pertinent in providing the proper context of authoritarian states. However, this concept can also accommodate the agency of other actors in affecting state decisions. In analysing state-societal relationship, Skocpol iterated that state decision-making formulation is independent of other, non-state interest. Beyond the direct patterns stemming from political arrangements, she also emphasised on the unintended conse-

quences through ‘policy feedback’ (Skocpol 1992, 2008), which according to Béland (2010: 570) can be defined as the “impact of previously enacted policies on future political behavior and policy choices”.

To demonstrate this point, Skocpol’s *Protecting Soldiers and Mothers* (1992) borrowed from Tocqueville to depict how 19<sup>th</sup>-century American state structure affected the objectives and capacities of social groups, leading to policy feedbacks that consequently reshaped political processes, thus modifying the capacities of the state (Skocpol 1992). Peter Evans (1995) – a key collaborator of Skocpol – introduced the concept of “embedded autonomy”, which explores the outcome of shared projects in economic development between state and societal actors. Migdal (2001) developed the “state in society” concept to demonstrate the mutual transformation of state and society. He saw the state as an organisation that is not only separated, but “elevated” from society (Migdal 2001: 17). This means not only that the state is a monolithic entity with a clear boundary, but also that, just like any other organisation, there are “ongoing battles” that push “different versions of how people should behave” (Migdal 2001: 12). In sum, it is not only the state that matters, but also the subsequent consequences born out of its configurations and activities, which can “stimulate the development of influential bureaucratic constituencies” (Béland 2010: 572). This, in turn, provides fertile ground for certain groups to form and make collective action and further their unique interests.

I should note here that policies take many different forms; not only statements by the state, but also written laws, rules, and “the broader sweep of politics” (Birkland 2014: 10). Some observers have 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” (Hacker, Mettler, and Soss 2007: 15). However, the literature on policy feedback has been partial to examining the material incentives of economic and welfare programmes (Skocpol 1992; Soss 1999; Mettler and Soss 2004; Mettler 2002; Campbell 2003; Béland 2010). Shifting the empirical focus to analyse religious policies effectively expands the scope to cover religious and cultural concerns and investigates the agency of state-linked religious actors in shaping state decisions.

In Singapore, the establishment of a legal statute that accords religious bureaucracy reflects state policy in the rigorous management and regulation of religious affairs. The reach of this religious bureaucracy is

not limited to administrative issues, but also endows it with authority to issue religious decrees and justify religious actions. This, of course, refers to the *fatwa* institution, but it is situated at a unique juncture that straddles between state bureaucracy and societal independence. The *fatwa* committee in Singapore is made up of both salaried religious bureaucrats and volunteer *ulama* (Lindsey and Steiner 2012a: 120–121).<sup>7</sup> The committee also consists of other experts from non-religious backgrounds to help address legal, medical, banking, and other contemporary issues (Semait 2015. pers. comm.). More notably, as I shall demonstrate later, despite officially working within the ambit of the state, the *fatwas* that are issued do not necessarily reflect the official state position; rather, they contradict and even shape the outcome of state policies.

The amalgamation of state and religious interests manifests in what I call Statist Islam. This refers to the outcome of negotiation on religious matters, mainly involving the state and state-aligned religious bureaucrats and, at times, other domestic and exogenous factors. Here, Statist Islam does not refer to a static form of religious narrative and praxis; it is constantly in a process of changing and becoming. Yet, as is apparent from the prefix ‘Statist’, I argue that the state as the most powerful autonomous social institution plays the key role in shaping it due to its infinite resources and coercive power. This is exercised by placing legal boundaries and bureaucratic restrictions, which then affect how religious practices *should* be observed. All these result in the state inadvertently promoting a particular ‘brand’ of Islam.

I must acknowledge that Statist Islam has been used to refer to religious projects that consciously manifest religion in the state (Mohamad 2010a; Saravanamuttu 2010; Saenong 2015). Parallel examples in other Southeast Asian countries include “statist Buddhism”, which discusses the manifestation of Buddhism in the state, with emphasis on religious actors establishing linkages between Buddhism and the state (Cho 2013), or even meshing religion in the state apparatus to form a particular national identity (Lynch 2004). My interpretation of Statist Islam differs in that it does not refer to the immediate efforts to introduce religion in the state, or statist intervention of religion. Rather, Statist Islam is the consequence of these efforts by the state, its apparatus, and various religious and societal actors; the product of preservation and assertion of each actor’s interests, and the sum of its consequences, both intended and otherwise.

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7 *Ulama* is the plural of *alim*, which means religious scholar.

In examining common assumptions of subjugation of religious actors in authoritarian Southeast Asian states, the role of religious bureaucrats tends to become marginalised in favour of a dominant state. This leads to the hypothesis, cited earlier, that downplays the agency of religious institutions. This assumption is especially problematic when analysing the micro- and macro-level dynamics between state and religious institutions. *Fatwa* institutions provide useful insight on the negotiation between the state and the religious bureaucracy, which can moderate the position of both sides; this is not far from what Menchik (2014) argued in Indonesia's experience. This builds upon the caveat 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" (Kloos 2013: 20). It is the sum of these negotiations, not the immediate demands by these actors, that shapes Statist Islam.

The conception of Statist Islam also resonates with what Sloane-White calls "Corporate Islam", which depicts how companies and businesses interpret state-sanctioned Islamisation projects. This also mimics Müller's thesis on "hybrid pathways to orthodoxy" when he analysed how social actors interpret state-led Islamisation projects to fit their own narratives (Müller 2018). The difference here is that Statist Islam focuses on how the religious bureaucracy negotiates with the state to contest and affect statist religious projects, and how it exploits this close proximity to the state to both shape and circumvent statist characterisation of religious praxis.

As such, although the religious bureaucracy in Singapore is an arm of the state, this does not necessarily mean that state demands are simply administered by the religious bureaucracy. Rather, state decision undergoes an extra layer of filter that meshes it together with the interest of religious bureaucrats. I argue that there is a process that leads to the amalgamation of statist and religious interests, and leads to a particular form of religious practice building on limitations set by the state.

Having explained the context that these religious actors operate in, the next part examines examples of how *fatwas* function within these limitations, and provides an explanation of what *fatwas* represent in contesting and informing 'Statist Islam'.

## 2 Formalising *fatwas*: Developing Religious Bureaucracy

### 2.1 Colonial Era

The most significant occurrence in the development of religious bureaucracy in the colonial period was the Mohammedan Marriage Ordinance of 1880 because it rebooted the administration of Islamic law into a centralised religious authority, upon which today's religious bureaucracy is built (Abbas 2012; Lindsey and Steiner 2012a).

Prior to colonisation, 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*<sup>8</sup> (Kamali 1997; Ismail 2015; Ibrahim 1996; Hussin 2016). Although Singapore initially remained under the Johor Sultanate when the British arrived in 1819, by 1824 they were made to “cede, in full sovereignty and property, to the Honourable [...] English East Indian Company, their heirs and successors for ever, the island of Singapore” (Newbold 1839: 490). Under colonial rule, secular law superseded Islamic law, although segments of Islamic family law were exempted, specifically in marriage, divorce, and inheritance.<sup>9</sup> As Stamford Raffles, who was credited with the British takeover of Singapore, noted: “In all cases regarding the ceremonies of religion and marriages and the rules of inheritance, the laws and custom of the Malays will be respected, where they shall not be in contrary to reason, justice or humanity” (Raffles, cited in Abbas 2012: 164).

After the British took control of Singapore in perpetuity, things began to change for the Muslims in the country. As part of the Straits Settlement, and later Crown Colony, the enforcement of Islamic law in Singapore was severely limited under British rule. Various landmark cases cemented the position of English Law as the default law, which meant that Islamic law could not be part of the law except through ordinance (Yahaya 2015: 509–510). Therefore, Islamic law was “largely written out as the legal basis for the Straits Settlements once and for all” (Yahaya 2015: 509).

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8 *Qadi*, alternatively spelt *kadi* or *kathi*, originally means a judge that presides over an Islamic court. In Malay-speaking Southeast Asian context, the term is used today to refer to Islamic marriage solemnisers.

9 Even then, historians noted that in the colonial period, Islamic law was relegated to the extent there were no proper Islamic court houses in most states and their staffs were neglected (Turnbull 1985: 22).

The dissociation of the state from the management of Islamic family law pushed the responsibility wholly towards individual religious actors such as *qadis* and *imams*. The legal status of religious observances also became increasingly problematic in a state where both British and *shariah* laws were observed, leading to a “complex combination of judicial precedent and statutory intervention” (Abbas 2012: 165), which Hooker labelled the “Anglo-Malay *madhhab*”<sup>10</sup> (Hooker cited in Lindsey and Steiner 2012a). While these religious actors were left to administer Islamic law with minimal state intervention, this also meant that religious authority was dispersed. This led to disputes between various parties; the recognition of *qadis* was voluntary as each community selected its own *qadi* to administer Islamic law (*Straits Times Overland Journal* 1880). The issue 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 (Yahaya 2015). Her uncle asked the colonial court to have the marriage annulled as the marriage was contingent upon guardian consent according to the predominantly observed Shafi’i *madhhab*, or school of thought. However, the judge dismissed the case as he consulted the manual of another *madhhab* that allows a woman to select her suitor without guardian consent (Yahaya 2015).

This underlined the petition of Arab merchants for officially appointed *qadis* to ensure proper record-keeping, vital due to their frequent travels (Yahaya 2015: 503). This petition was eventually accepted by the British, and legislation for Islamic personal law was enacted with the Mohammedan Marriage Ordinance in 1880. The ordinance allowed the governor of Singapore to appoint official *qadis* and religious officials (Abbas 2012: 165) and established *qadi* courts with exclusive jurisdiction over Muslims (Black 2012: 10). This marked the rebooting of religious bureaucracy in Singapore and effectively placed these religious bureaucrats on the same level as civil servants (Yahaya 2015: 512).

This episode underlined how linking religious administration to state authority had a more complex dynamic, rather than a one-way statist usurpation of religious institutions. It also set the tone for the persistent intersection of interests and demands between religious actors and the state.

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10 A *madhhab* refers to a school of thought in Islamic law.

## 2.2 Post-colonial Era

Between the 1880 Mohammedan Marriage Ordinance and Singapore's independence in 1965, there had been gradual and incremental moves to facilitate the administration of Islamic law in the country. The initial Ordinance was amended in 1908 to make compulsory marriage and divorce registration, and imposed fines and imprisonment for offenders (Lindsey and Steiner 2012a). Another amendment, in 1923, saw the recognition of Muslim intestate law or *faraidh* in Singapore. The Muslim Endowment Board was established in 1906, followed by the Mohammedan Advisory Board in 1915 to advise the colonial power on matters pertaining to Islamic affairs. In 1957, the Muslim Ordinance was introduced, which led to the formation of the Syariah Court and later the Registrar of Muslim Marriages, formally institutionalising these organisations in managing Muslim marriages and divorces (Lindsey and Steiner 2012a).

When the Crown Colony was dissolved in 1963, Singapore became part of Malaysia but separated two years later. Singapore's constitution, enacted in December 1965, entrenched the role of Islamic religious bureaucracy in the state. During the short-lived merger, the Malaysian king became the highest Islamic authority, not only for Malaysia but for Singapore as well. Plans were in place to create an advisory body to advise the king; Singapore was obliged to establish a Council of Muslim Religion to advise the king on religious matters (Siddique 1986).

The merger was short-lived, but the proposed Islamic council remained apparent in the Administration of Muslim Law Act (AMLA). Enacted in 1966, it superseded all previous Muslim ordinances and became the all-encompassing Islamic legislation in Singapore. This eventually led to the creation of a centralised Islamic body known as *Majlis Ugama Islam Singapura* (Islamic Religious Council of Singapore or MUIS), the administrative body that today manages a slew of Muslim-related affairs, such as properties endowed for religious cause or *waqf*, pilgrimage matters, madrasahs, and mosques. More pertinently, a *fatwa* body – termed *Jawatankuasa Fatwa* or Legal Committee – was also formed under MUIS. The establishment of a central *fatwa* issuer relegated the position of other *fatwa*-givers, gave *fatwa* official bureaucratic authority, and marked the formalisation of *fatwas* in the country.

This is significant because local *fatwa*-givers had previously lacked state affiliation, much less been tied to bureaucratic logic. As there was no single individual or institution formally appointed to issue *fatwas*, petitioners would refer to their respective religious instructors. Other informal avenues to source for *fatwas* were religious radio programmes,

religious books, and pamphlets (Syed Mohamed 1999). Due to the lack of a single *fatwa* body, the Muslim community was free to choose *fatwas* from abroad that suited their interests, thus stripping *fatwas* of their sophisticated, contextualised development. In these early variations of ‘*fatwa-shopping*’, religious questions were directed to overseas muftis in nearby Johor, and even as far as Egypt (Syed Mohamed 1999; Yahaya 2015: 499).

*Fatwas* were also requested in national newspapers. For example, in 1949, a petitioner wrote in to a newspaper asking the Muslim Missionary Society Singapore, better known as Jamiyah, a non-state body, for *fatwa* on whether imported meat in local supermarkets was halal or permissible for Muslim consumption (Anjor 1949). 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. To illustrate, one of the early *fatwas* issued by the official *fatwa* committee decreed that a new Islamic lunar month is determined not solely by physical sighting of the new moon, but through astronomical calculations (Semait 2015. pers. comm.). Compared to physical moon sighting, which has to take place on the evening of a new lunar month, astronomical calculations can be done well in advance, particularly useful for scheduling and planning purposes for work and school. In 1980, a Jamiyah seminar discussed alternative methods of moon-sighting to determine the Islamic lunar calendar. However, this was criticised in newspaper forums by members of the public for challenging the official MUIS *fatwa* on the matter (Sulaiman 1980). This demonstrated the rise of the *fatwa* institution to supersede the authority of earlier, much older, religious institutions in the country.

As technological, medical, and financial advances also led to more *fatwa* requests, the relevance of the official *fatwa* institution grew further. The *fatwa* committee in Singapore was initially made up of five members, and today consists of at least 15 members, some of whom have medical, financial and legal backgrounds in order to answer increasingly complicated issues (Semait 2015. pers. comm.).<sup>11</sup> A central *fatwa* body becomes an accessible point for religious queries and narrowed down religious authority to one body of religious experts. *Fatwas* are requested and answered by mail, and can sometimes be publicised for public interest (Lindsey and Steiner 2012a: 122). Every time this body issues more of its

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11 To date, there have been three official 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.



*fatwas* and opinions, its authority expands and pushes the other institutions to the periphery. Over time, the *fatwa* institution entrenched its position in society and became the default reference point for religious issues. The creation of an official *fatwa* body clearly made significant changes to how *fatwas* function in state and society. It officially diminished the role of other *fatwa*-givers and relegated the status of *fatwas* issued by other religious actors such as *qadis*, the *ulama*, and even religious authors. It must be noted that the existence of the *fatwa* body never prevented these actors from issuing *fatwas*, although they must now contend with an official state-appointed *mufti*, in addition other *fatwa*-issuers.

The *fatwa* institution is accorded new bureaucratic authority as it operates through MUIS, enabling it to be linked to the state's bureaucratic workings and thus allowing religious decrees relevant to the state's decision-making process. This essentially establishes the legal-bureaucratic channel for religious actors to advance policy feedback and negotiate state decisions. While the *fatwa* institution is a constituent of the religious bureaucracy, it was established with the underlying aim of protecting "religious interest".<sup>12</sup> For the *fatwa* committee, this interest is exhibited in its core function, which is to provide the Muslim community with sound religious instruction directed by a group of *ulama*. The committee endows the *ulama* with a much-needed platform to negotiate for their "sectoral" interest, which Pierret (2013) explained is "in the sense [...] to influence state policies on issues that are seen as crucial from the point of view of a particular [religious] sectoral elite" such as "expansion of religious institutions", "the preservation of orthodoxy", and "public morality" (Pierret 2013: 164–165). Yet, the proximity of the *ulama*'s own position and their bureaucratic parent to the state should not be dis-

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12 Singapore's constitution, enacted in December 1965, entrenched the role of Islamic religious bureaucracy in the state. Part XIII on General Provisions began with Article 152 on Minorities and Special Position of Malays. Article 152 (2) of the constitution ensured the state's role in promoting not only social, but also religious interest:

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.

Immediately following this, Article 153 specifically provisioned:

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.

counted. This is because this feedback channel is reciprocal and makes the *fatwa* committee more cognizant of bureaucratic considerations, which can also moderate *fatwas*. All these aspects would test the *fatwa* institution's capacity to operate between the state's bureaucratic logic and its own distinct religious function. The next part of this article looks at specific cases of this religio-bureaucratic contestation.

### 3 *Fatwa* and State Policy

#### 3.1 Family Planning and Birth Control

Singapore's population control policy began with a staunchly anti-natalist one, and changed a few decades later to incentivising families with more children. From 1960 to 1987, as the state sought to limit the population growth, rigid and controversial policies were put in place to discourage births. Yet, as the policies persisted, *fatwas* continued to discourage birth control, and even stated that certain aspects of the policies were prohibited in Islam (Kumpulan Fatwa 1987).

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, including the telecast of a television discussion for the Malay-Muslim community, with panellists including the registrar of the Syariah Court (Merah 1972). In the forum, the registrar stated that while family planning is allowed, permanent sterilisation is not permitted by Islamic teachings (Merah 1972).

The *fatwa* committee discussed the birth control issue in August 1972, a month after the National Family Planning Campaign was launched, but did not reach a conclusion. A *fatwa* was eventually issued in 1974 in response to a letter sent in by a member of the public. The letter – discussed in a Mesyuarat Jawatankuasa Fatwa or Fatwa Committee Meeting – was from a pregnant working mother of three who said her doctor advised her to undergo ligation after giving birth. Her husband disagreed because he was told by his religious teacher that ligation is prohibited for Muslims. She pointed out that refusing to undergo ligation would lead to several penalties imposed by the state, such as paying extra accouchement fees, waiver of her maternity leave, and having her child's registration in school deprioritised in favour of those from smaller families (Mesyuarat Jawatankuasa Fatwa 1974).

This letter was written in the context of the state's anti-natalist policies at the time, which introduced penalties for the families having more than two children (Wong and Yeoh 2003: 7). As evident in the above-

mentioned letter, these included an increase in maternity fee and cancellation of maternity leave. In the *fatwa* committee meeting, the members agreed that ligation is prohibited for Muslims, and that sterilisation is prohibited unless for life-threatening reasons or emergencies (Mesyuarat Jawatankuasa Fatwa 1974). However, I found no record that showed this *fatwa* on birth control was publicised; it was likely that the answer was only given to the questioner personally. For those looking for religious instruction on the matter, the lack of a public *fatwa* was made up for by advice from various *ulama* in newspapers as well as in private, all of which articulated the same line: no permanent ligation or sterilisation is permitted. This particular instruction by the *ulama*, as well as warning against making financial concerns the ultimate consideration, was emphasised in the media amidst the national birth control campaign (*Berita Harian* 1973a; Ismail 1974).

In the 1980s the family planning programme was revised to promote larger families. At first, a slew of controversial measures were introduced to encourage what can only be described as eugenics, which incentivised larger families only among the economically well-off (Yap 2003). The most glaring one was the Graduate Mother's Scheme, in which school registration was prioritised for children whose mothers held a recognised university degree or professional qualification. These 'highly educated' mothers also received generous tax relief for having more children (Boey and Pereira 1984; Peng 1984). Meanwhile, women whom the state regarded as having 'low' educational qualification were discouraged from having children; instead, they were encouraged to undergo sterilisation in return for a monetary reward (*The Straits Times* 1984a). For these 'lower-educated' women, undergoing sterilisation would also ensure their children received prioritised school registration (Peng 1984). Unsurprisingly, the selective scheme was criticised by many and proved so unpopular that it was scrapped just a year later (*The Straits Times* 1984b; *Singapore Monitor* 1985).

Figure 1. Various Family Planning Campaign Posters Produced between 1974–1983



Source: National Archives of Singapore.

Beginning in the 1980s, the MUIS *fatwa* committee publicised several *fatwas* on the family planning policy. In a 1984 *fatwa*, a familiar message was reiterated: family planning was allowed in order to “protect from physical weaknesses and encourage nurturing them to be strong and healthy,” and being sterilised to obtain monetary benefit was prohibited, “especially for fear of being unable to provide food or poverty” (Simon 1984: 1). In 1987, a *fatwa* booklet published by MUIS also included a *fatwa* on family planning. The *fatwa* highlighted the traditional religious recommendation of marrying with the intent of having children, at the same time stressing that “Islam places importance on quality over quantity” (Kumpulan *Fatwa* 1987: 40). The *fatwa* also stated some conditions on using contraceptives; for example, it is allowed if it does not have permanent effect and does not cause bodily harm.

Although the state has since changed its policy to encourage a higher birth rate, some of these selective birth control policies remain.<sup>13</sup> What this episode shows is that despite *fatwas* bearing bureaucratic access and legal recognition, they do not necessarily have to be consulted by the policymakers. As such, their formalised authority was irrelevant in terms of affecting this particular state policy. However, this did not mean that issued *fatwas* were rendered totally ineffectual. During the decades that the state rolled out its anti-natalist population policy, the *fatwa* institution remained adamantly opposed to it. Because *fatwas* had limited recourse in changing the policy, rather than banking on formalised authority, they invoked informal authority to give religious instruction directly to the Muslim community. These *fatwas* directly challenged the state policy because they encouraged families to have more children. Clearly, the bureaucratisation of Islam does not mean the automatic religious support of state policies, as bureaucratic restriction could not completely restrict religious institutions from acting at their behest.

In more recent times, due to the changing economic landscape that demands a larger workforce and more consumers, the state policy was revised to promote a larger population, including having larger families. As the *fatwas* remain unchanged, both the state and *fatwa* body now agree on encouraging births, at least until the next policy revision.

### 3.2 Organ Donation

Organ donation in Singapore was largely voluntary until the Human Organ Transplant Act (HOTA) was enacted in 1987. HOTA is a public organ donation system that assumes automatic consent from Singapore citizens. All healthy adults are included under the act and unless they opt out, upon death their organs will be donated to other patients. Initial *fatwas* prohibited any form of organ donation (*Berita Harian* 1973b). When HOTA was enacted in 1987, Muslims were excluded (Rahman 2008; Zuber 2010) because although the *fatwa* had allowed organ donation by then, it still demanded explicit consent from the donor and two male guardians (Fatwa Pemindahan/Pendermaan Organ 1985). Over time, however, the *fatwa* gradually softened. Muslims were only included in the system in 2008 following a *fatwa* that allows assumed consent (Office of the Mufti 2007).

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13 The Small Families Improvement Scheme was a state project launched in 1993 that gave financial assistance to low-income families, subject to certain conditions such as not having more than two children. It was rebranded to Home Ownership Plus Education (HOPE) in 2004.

The evolution of the organ donation *fatwa* took some 44 years. The first *fatwa* on organ donation was recorded in 1973, when a petitioner asked about the permissibility of organ transplant after death. The *fatwa* stated that it was prohibited for several reasons, citing among them the human body as temporal custodianship that should not be tampered with (Majlis Ugama Islam Singapura n.d.: 42).

The next mention of organ donation in the *fatwa* discussion came more than a decade later, in 1985, when the government – through a letter from the Ministry of Community Development – asked for a *fatwa* on the proposed organ donation programme later known as HOTA (Anonymous 2018. pers. comm.). The government was drawing a policy that would automatically assume all citizens to be voluntary organ donors unless they opted out. There were discussions on the extent of severity that might allow for exceptions, but the *fatwas* concluded that organ donation, by default, is prohibited (Anonymous 2018. pers. comm.).

Throughout the same year, the *fatwa* committee continued to deliberate on the permissibility of organ donation. There were also several discussions that the *fatwa* committee held together with other religious teachers in Singapore (*Berita Harian* 1985a, 1985b). By the end of the year, a *fatwa* was issued allowing organ donation in life-threatening cases, albeit with several conditions.<sup>14</sup> If the donation is done after death, it is contingent on prior permission of the donor and two male guardians.<sup>15</sup>

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 did not require guardian consent (Anonymous 2018. pers. comm.). Given that the position of the *fatwa* institution 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*. One might also say that this could be an attempt by the government to nudge the *fatwa* in a particular direction. The *fatwa* committee proposed that organ donation policy include an option for Muslims to be exempted. However, if a Muslim

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14 The conditions that allowed for this circumvention are emphasised in it being a *darurah*, defined here as life-threatening emergency. Other stipulations were that donors cannot be coerced and that the transplant has a high probability of success.

15 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 have used male guardians instead.

chooses to be a donor then guardian consent is required beforehand (Majlis Ugama Islam Singapura n.d.: 42).

In the deliberations that led to the decision, the initial *fatwa* that prohibited organ transplant outright changed; organ donation was now allowed but with stringent conditions. HOTA was eventually passed in Parliament on July 1987 allowing the automatic removal of organ after death by the state. The state enacted the ‘opt-out’ organ donation system in which donor consent was assumed from all eligible citizens, while those who did not give their consent had to actively opt out of it. Because the *fatwa* institution did not support assumed consent, Muslims were exempted except if they choose to opt in to HOTA. Section 5 in Part II of the Act reads:

(2) No authority shall be given [...] for the removal of the organ from the body of any deceased person –

[...] (g) who is a Muslim. (Human Organ Transplant Act 1987: sec. 5)

The *fatwa* restricted the inclusion of Muslims in the organ donation system. As the years progressed, however, it became apparent that Muslims were under-represented among organ donors, and the number of Muslim organ donation pledges remained low (Nirmala 1997). This low response was exacerbated by the requirement for Muslim donors to have 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 was no proper endorsement from qualified guardians, meaning that Muslim donors could not pledge their organs despite their desire to do so (Bakaram 2009: 220).

HOTA – which only covered kidney transplant – was amended again in 1998 and 2004 to include other human organs. In public consultations prior to these amendments, there were already calls to automatically include Muslims in the Act (*Berita Harian* 2003a, 2003b). Furthermore, other actors began to petition the *fatwa* committee to review its *fatwa*, especially the Muslim Kidney Action Association (MKAC), a volunteer group that provides for the welfare of kidney patients. Together with the Ministry of Health, the group provided a number of reports over several years to justify Muslim inclusion in HOTA. The blanket exclusion of Muslims from HOTA had excluded them as recipients in the national organ donation system. The MKAC reports mainly addressed the health and social impact of the lack of Muslim donors, as well as data on the rising number of Muslim renal patients (Bakaram 2009).

Amidst these developments, the *fatwa* committee amended the *fatwa* to expand the definition of a guardian whose consent was required to any two male witnesses, rather than just male next-of-kin. The *fatwa* amendment also permitted the inclusion of other parts of the body for transplant (Bakaram 2009: 227), but this did not bring about significant change as the procedure for Muslim organ donation still required pledging (Bakaram 2009: 217).

Further petitions took place, and eventually in 2007 a new *fatwa* was issued that not only eliminated the need of witnesses or next-of-kin, but also presumed automatic consent from Muslims. This effectively meant that Muslims could be automatically included as donor and recipient in HOTA. To justify presumed consent, the *fatwa* stated that since presumed consent is revocable, it is deemed similar to normal consent (Office of the Mufti 2007). The *fatwa* also cited two key reasons for this change: the proportionately higher number Muslims with renal failure, and the low number of actual organ donors among Muslims. According to the *fatwa*, this underlined the dire need for organ donation in the country, which led to the amendment. Following the *fatwa*, Muslims were officially included in HOTA in 2008.

This episode demonstrated how *fatwas* affected the organ donation system in Singapore. Despite the widely authoritarian and secular characteristics of the state, the *fatwa* committee managed to affect what was supposed to be a straightforward implementation of a health policy. Because *fatwas* were petitioned in drawing up the policy, the state had to recognise its formalised authority, and even carve out policy exemption to not contradict the *fatwa*. This exception lasted until the *fatwa* committee eventually removed the requisite for explicit consent for Muslim organ donor, which then enabled Muslims to be included in HOTA. A significant part of this is due to the bureaucratic embeddedness that formalises the relationship between policymakers and *fatwas*. This allowed *fatwas* to assert its own authority and facilitated negotiation through policy feedback, and simply by insisting on its position against an outright assumed consent for Muslims the policymakers were forced to accept the *fatwa* with clear implication on the policy itself. Thus, the embeddedness of *fatwas* in state bureaucracy does not always restrict its function or authority. Rather, as I have shown, *because* of this embeddedness *fatwas* were consulted in drawing up state policies; the reach of *fatwas* became amplified, and in this case translated into an actual nationwide policy with obvious distinction for Muslims.

Despite the initial adamant position of *fatwas* against organ donation – which some have blamed on the “problem of traditionalism” (Rahman



2008: 253) – there is a need to highlight that *fatwas* did change over time, and this today means that both the state and *fatwa* committee are in support of automatic organ donation. One factor for this is that despite adherence to traditional sources and reasonings which Islamic rulings are based on, *fatwas* are typically not immune from change depending on context, situation, and necessity. This is evident in the reason and justification given in the eventual *fatwas* permitting the inclusion of Muslims in HOTA as mentioned above. Also, it is undeniable that without constant external pressure from the government and social groups such as the MKAC, such a change – which is already gradual – would be almost imperceptible. In other words, just like state policies, *fatwas* are also susceptible to change under certain circumstances. This factor adds nuance to the understanding of bureaucratisation of Islam, and indicate reciprocity between religious actors and the government, and that neither one is insulated from the other.

## 4 Concluding Remarks

This paper has outlined the relevance of *fatwas* in the secular state of Singapore. I have traced the development of Islamic bureaucracy represented by MUIS and the establishment of the *fatwa* institution. From colonial petitions that demanded a centralised religious authority to prevent mismanagement of religious affairs, to the consequent revisions of laws and ordinances to regulate religion, today's religious bureaucracy is the result of more than a century of negotiations, accommodations, and political expediency.

Indeed, *fatwas* have always been a feature of Muslim societies, and now more than ever, the deeply rooted, yet constantly evolving and contextually informed role of such institutions deserves more scrutiny. The *fatwa* institution in Singapore benefited from an overarching state especially in cementing its authority, and gave it new bureaucratic and legal access. *Fatwas* are placed in a favourable position to affect policy feedback on state decisions. This is a result of state policy that – in order to regulate religious affairs – had to create new bureaucratic positions for religious actors, consequently allowing them to organise collective action and further their unique interests. The religious bureaucracy formally establishes the intersection between state and religious demands. While the state arguably restricts the full potential of the religious bureaucracy, the latter can still affect the former's decision-making process through this new legal-bureaucratic access. It is fair to say that, despite examples of aggressive implementation of state policy and the proximity of the

*fatwa* committee to the state, *fatwas* to some extent remain obstinately persistent.

Thus, the bureaucratic authority of the state is not a complete subjugation of all its institutions as the relationship relies on reciprocity, even if it is asymmetrical. The benefits of being closely positioned to each other are both enabling and restricting, and this bears true for both the state and the Islamic bureaucracy to which the *fatwa* committee belongs. Furthermore, the availability of platforms to disseminate *fatwas*, ranging from newspapers to its own publications to religious classes, also highlighted how state-linked religious actors can assert views autonomous of the state.

These two case studies, which span a period of more than four decades, highlight the complicated relationship between *fatwa* and the state. There is no denying that the government – especially one with an authoritarian reputation – ultimately holds the final say in many decisions involving religious affairs, but this needs to be qualified as its bureaucratic constituencies are also able to negotiate the outcome. In the population control episode from the 1970s to the 1990s, state policy stemming from economic concerns led to the creation of an anti-natalist policy. Larger families were penalised, while those who adhered to the programme were awarded with financial inducements. Despite its bureaucratic link to the state, the *fatwa* committee was unable to formally affect the policy. The inability to inform state decision through policy feedback was made up by other, more direct means: *fatwas* were issued to the Muslim community to discourage them from participating in these programmes, and encouraged larger families by exploiting the various media platforms, as well as maintaining a consistent message among the religious teachers. The organ donation policy meanwhile shone light on the bureaucratic logic that binds both the *fatwa* committee and the state. When the state engaged *fatwas*, it was seemingly bound by them even though there were no legal basis for doing so. This allowed *fatwas* to affect policy direction. However, this bureaucratic engagement is not a one-way street, as *fatwas* also had to accommodate interjections from various state and societal actors, which ultimately led to the amendment of *fatwas* itself.

The persistent negotiations and contestations between the government and religious bureaucrats sometimes result in policy shifts and changes to reflect the demands of the involved parties. Both the autonomous state and *fatwa* committee possess means to circumvent each other in their decisions, and this perhaps cause both sides to be even more cautious, co-optive, and cooperative to the demands of the other.

This shapes the version of Statist Islam that, in Singapore, is built on a legacy of religious tradition, colonial rule, and post-colonial state discourse. In the midst of this complex dynamics, the modern *fatwa* institution represents an oddity in state bureaucracy; formally dependent on the state, yet autonomous enough to challenge it.

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