



## THE VIEW OF *AHL AL-DZIMMAH* THEORY REGARDING THE THOUGHTS OF THE INDONESIAN ULEMA COUNCIL (MUI) ABOUT POLICIES ON INTERFAITH SERVICES AT THE OFFICE OF RELIGIOUS AFFAIRS (KUA)

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(Received: July 2024 / Revised: August 2024/ Accepted: October 2024)

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### ABSTRACT

Artikel ini bertujuan menganalisis perspektif MUI mengenai kebijakan layanan keagamaan di KUA dari sudut pandang teori *ahl al-dzimmah*, sebuah konsep dalam Fikih Siyasah (Politik Islam). Metodologi penelitian yang digunakan dalam artikel ini adalah penelitian kualitatif-kepustakaan, yang mengandalkan literatur sebagai sumber data utama, yakni diambilkan dari dokumen Ijtima' Ulama Komisi Fatwa MUI yang kedelapan tahun 2024. Hasil penelitian menunjukkan bahwa, menurut MUI, KUA seharusnya tidak ditetapkan sebagai pusat layanan untuk semua agama di Indonesia. Keputusan ini didasarkan pada bukti sejarah yang menunjukkan bahwa KUA, yang beroperasi di bawah Kementerian Agama, secara khusus ditujukan untuk umat Islam sebagai bagian dari kompensasi atas penghapusan tujuh kata dari Piagam Jakarta yang sebelumnya menganjurkan kewajiban untuk menegakkan hukum Islam bagi pengikut Islam di Indonesia. Konsep itu akhirnya digantikan oleh ideologi Pancasila. MUI juga berargumen bahwa masalah yang berkaitan dengan agama selain Islam sangat berbeda dari urusan keagamaan Islam. Hal ini menimbulkan kekhawatiran tentang potensi pencampuran agama jika KUA menjadi pusat layanan untuk semua agama. MUI menegaskan bahwa mengubah KUA menjadi pusat layanan untuk semua agama bertentangan dengan hukum yang ada dan tidak sejalan dengan realitas sosial dalam hubungan antar umat beragama. Implikasi analisis berdasarkan teori *ahl al-dzimmah* adalah bahwa non-Muslim memiliki hak untuk mendaftarkan pernikahan dan mendapatkan layanan pelaksanaan pernikahan di KUA. Namun, sangat penting agar pejabat yang bertindak sebagai "pencatat nikah" mematuhi ajaran agama masing-masing untuk mencegah terjadinya percampuran antaragama.

*Keyword: KUA untuk semua agama, Komisi Fatwa MUI, Ahl al-Dzimmah.*

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## 1. PENDAHULUAN

As is well-known, the Unitary State of the Republic of Indonesia (NKRI) is essentially not an Islamic state, but rather a religious state that recognizes the existence of six religions: Islam, Protestantism, Catholicism, Hinduism, Buddhism, and Confucianism.<sup>1</sup> Therefore, during the Working Meeting of the Directorate General of Islamic Community Guidance in February 2024, the Minister of Religious Affairs, Yaqut Cholil Qoumas, stated that the Office of Religious Affairs (KUA) can act as a center for interfaith services.<sup>2</sup> This statement by the Minister of Religious Affairs can be seen as a step taken to accommodate the needs of communities beyond the Muslim community.

Islam is the predominant religion with the most followers in the country. Among a total population of about 280 million people, 87.2% practice Islam. Furthermore, 6.9% follow Protestantism, 2.9% adhere to Catholicism, 1.7% to Hinduism, 0.7% to Buddhism, and 0.05% to Confucianism.<sup>3</sup> As the majority, Muslims are expected by the Minister of Religious Affairs to support non-Muslims in carrying out their worship properly, including providing equal facilities related to the registration and implementation of marriages at the Office of Religious Affairs (KUA).<sup>4</sup>

Being a country with a predominantly Muslim population, regulating the legal framework in Indonesia is challenging, especially concerning the lives of Muslims and their relationships among different religious communities. Through various legal and political processes over the past 20 years, Muslims have gained more freedom after facing repression from the colonial era to the New Order.<sup>5</sup>

Following the reformation, Muslims have more significant influence than ever before, it is leading to the rise of political Islam, previously suppressed during the

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<sup>1</sup> Portal Informasi Indonesia, "Agama", Indonesia.go.id, diakses tanggal 11 Desember 2024. <https://indonesia.go.id/profil/agama>

<sup>2</sup> Anisa Rizki Febriani, "Tak Hanya Untuk Pemeluk Islam, Menag Minta KUA Bisa Layani Semua Agama". Diakses tanggal 10 Desember 2024. <https://www.detik.com/hikmah/khazanah/d-7210353/tak-hanya-untuk-pemeluk-islam-menag-minta-kua-bisa-layani-semua-agama>

<sup>3</sup> Portal Informasi Indonesia, "Agama", Indonesia.go.id, diakses tanggal 11 Desember 2024. <https://indonesia.go.id/profil/agama>

<sup>4</sup> Anisa Rizki Febriani, "Tak Hanya Untuk Pemeluk Islam, Menag Minta KUA Bisa Layani Semua Agama". Diakses tanggal 10 Desember 2024. <https://www.detik.com/hikmah/khazanah/d-7210353/tak-hanya-untuk-pemeluk-islam-menag-minta-kua-bisa-layani-semua-agama>

<sup>5</sup> Muh. Syamsudin dan Muh. Fatkhan, "Dinamika Islam Pada Masa Orde Baru", *JURNAL DAKWAH*, Vol.11 No.2 (2010), 139-156.

Old Order and New Order eras. The emergence of political Islam at the national level has influenced various legal regulations in Indonesia, including the implementation of several regional sharia regulations.<sup>6</sup> The presence of sharia regulations in various regions signifies the growing of Islamic influence in Indonesia, resulting in the emergence of conservative and even radical movements.

To address the increasing radicalism among Muslims, the government of the Republic of Indonesia has implemented a deradicalization program. The primary objective of this program is to promote a discourse of moderate Islam during interfaith dialogues, contrasting radical Islamic perspectives.<sup>7</sup> Moderate Islam essentially aims to foster greater religious tolerance among Muslims, especially towards minority followers of other faiths. The concept of religious tolerance has resulted in diverse interpretations within the Muslim community. Some adhere to it loosely, blending different religious teachings, while others adopt a stricter approach, maintaining clear boundaries between religions.<sup>8</sup>

The promotion of religious tolerance, particularly in terms of jurisprudence, underscores the importance of allowing individuals of various faiths to practice their beliefs freely and to respect each other without amalgamating their religious teachings.<sup>9</sup> The directive from the Minister of Religious Affairs aims to enhance religious tolerance among Indonesian communities. Despite this intention, the policy has sparked both approval and dissent within the society.

Several academic communities have discussed the Minister's statement as a progressive step towards achieving a moderate religious life. One such event is a national seminar themed "KUA for All Religions," held at UIN Sayyid Ali Rahmatullah Tulungagung in April 2024.<sup>10</sup> Positive responses had also come from

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<sup>6</sup> Efrinaldi, "Perda Syariah dalam Perspektif Politik Islam dan Religiusitas Umat di Indonesia", *Madania : Jurnal Kajian Keislaman*, Vol.18 No.2 (2014), 119-132. <http://dx.doi.org/10.29300/madania.v18i2.14>

<sup>7</sup> Muhammad Ainun Najib dan Ahmad Khoiril Fata, "Islam Wasathiyah dan Kontestasi Wacana Moderatisme Islam di Indonesia" *JURNAL THEOLOGIA*, Vol.31 No.1 (2020), 115-138. <https://journal.walisongo.ac.id/index.php/teologia/index>

<sup>8</sup> Abu Bakar, "Konsep Toleransi dan Kebebasan Beragama", *TOLERANSI : Media Komunikasi Umat Beragama*, Vol. 7 No.2 (2015), 123-131.

<sup>9</sup> Said Romadlon, "Diskursus Makna Toleransi Terhadap Non-Muslim dalam Muhammadiyah Sebagai Gerakan Islam Berkemajuan (Analisis Hermeneutik Paul Ricoeur)", *Komuniti*, Vol.11 No.2 (2019), 101-118.

<sup>10</sup> Nur Fadhilah, "Kantor Urusan Agama : Sentra Layanan Keagamaan Lintas Agama. Tulungagung", 2024.

the Director-General of Islamic Community Guidance, Kamarudin Amin, who stated that he will soon launch the Office of Religious Affairs (KUA) as a center for interfaith religious services this year.<sup>11</sup> However, differing views have emerged from the Fatwa Commission of the Indonesian Ulema Council (MUI), representing the Islamic community, which contrasts with the perspective of the Director-General of Islamic Guidance. MUI has rejected this policy and issued the Eighth Ulama Ijtima Decision, which will be elaborated further in this article.

## 2. METHODS

This article discusses qualitative research methods according to Suyitno<sup>12</sup> and under the category of literature research based on Mestika.<sup>13</sup> Literature research involves a range of activities such as collecting data from libraries, reading, note-taking, and dealing with library collection data without conducting field research as mentioned by Mestika.<sup>14</sup> The data source utilized is the document from the Eighth Ijtima' of the Ulema Fatwa Commission of the Indonesian Ulema Council, published by the Fatwa Commission in 2024. Subsequently, the collected data is analyzed using the theory of *ahl al-dzimmah*. This theory, from the field of political jurisprudence to address the role of non-Muslims as minorities and citizens in a Muslim-majority country such as Indonesia.

## 3. THEORETICAL REVIEW

This article used the *ahl al-dzimmah* theory, a concept in political jurisprudence that explores the status of non-Muslims in a state.<sup>15</sup> The concept of *ahl al-dzimmah* emerged after the expansion of Islam, coinciding with the development of the

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<sup>11</sup> Anisa Rizki Febriani, "Tak Hanya Untuk Pemeluk Islam, Menag Minta KUA Bisa Layani Semua Agama". Diakses tanggal 10 Desember 2024. <https://www.detik.com/hikmah/khazanah/d-7210353/tak-hanya-untuk-pemeluk-islam-menag-minta-kua-bisa-layani-semua-agama>

<sup>12</sup> Suyitno, *Metode Penelitian Kualitatif : Konsep, Prinsip dan Operasionalnya* (Tulungagung :Akademia Pustaka, 2018), 15-16.

<sup>13</sup> Mestika Zed, *Metode Penelitian Kepustakaan* (Jakarta : Yayasan Pustaka Obor Indonesia, 2004), 30-33.

<sup>14</sup> Ibid.

<sup>15</sup> Yusuf al-Qardhawi Yusuf, *Ghairul Muslimin Fil Mujtama' al-Islami* terjemahan Muhammad Baqir, *Minoritas Non-Muslim di dalam Masyarakat Islam* (Bandung: Mizan,1994), 53.

political structure during the leadership of Prophet Muhammad in Medina. The *ahl al-dzimmah* theory evolved alongside Islamic governance during the Khulafaur Rasyidin era, and continued under the Umayyad and Abbasid Dynasties.<sup>16</sup> The term "*dzimmah*" refers to an agreement, guarantee, and security. Non-Muslims are known as *ahl al-dzimmah* because of the agreement they have with Muslims to reside in safety and peace under the protection of Islam and the Muslim community.<sup>17</sup>

The treatment of *ahl al-dzimmah* is outlined in the Medina Charter, which was agreed upon by Prophet Muhammad and non-Muslim groups such as the Jewish and Christian communities in Medina. The rule states, "The guarantee of Allah is only one. This guarantee or protection is provided by the government that is close to them".<sup>18</sup>

Protection and respect for non-Muslims were implemented by Prophet Muhammad through one of his hadiths, which states: "Remember, whoever acts arbitrarily against those bound by a covenant, humiliates them, burdens them beyond their capacity, or takes something from them without their consent, then I will be their adversary on the Day of Judgment." (HR. Abu Dawud).<sup>19</sup>

The existence and protection of *ahl al-dzimmah* are regulated in the Quran, Surah Al-Taubah, verse 29, which states: "Fight those who do not believe in Allah and His Messenger and who do not acknowledge the religion of truth, among those who were given the Scripture, until they pay the *jizyah* (tax) willingly and submissively" (QS. Al-Taubah: 29).<sup>20</sup> In Indonesia, a country with a Muslim majority, *ahl al-dzimmah* can be defined as non-Muslim minority groups residing together, mutually guaranteeing safety and tolerance towards one another.

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<sup>16</sup>Hamka Haq, *Konsep Dzimmi dalam Islam*, dalam Lutfie Syaekani, *Wajah Liberal Islam di Indonesia* (Jakarta : JIL, 2002), 27-30.

<sup>17</sup> Yusuf al-Qardhawi Yusuf, *Ghairul Muslimin Fil Mujtama' al-Islami* terjemahan Muhammad Baqir, *Minoritas Non-Muslim di dalam Masyarakat Islam* (Bandung: Mizan,1994), 53.

<sup>18</sup> Abdul Malik bin Hisyam al-Muafiri, *Sirah an-Nabawiyah Li Ibni Hisyam* (Beirut : Dar al-Fikr,1994), 107.

<sup>19</sup> Jalaludin al-Suyuthi, *Al-Jami' al-Shaghir* (Surabaya : Al-Hidayah, 1999), 59.

<sup>20</sup> Al-Qur'an, 9: 29.

## 4. RESULT AND DISCUSSION

### 4.1. The Decision of the 8th Fatwa Commission of the Indonesian Ulama Council (MUI) Regarding The Policy about the center for interfaith religious services at the Office of Religious Affairs (KUA)

In the introduction, it is stated that the MUI finds the Minister of Religious Affairs' proposal to transform the KUA into a center for religious services to be inappropriate. According to the MUI, the KUA should exclusively cater to the Muslim community. One of the reasons the MUI opposes the Minister's idea is rooted in historical aspect. The MUI asserts that the KUA originates from the evolution of the "*penghulu*" institution to the Dutch colonial era. During that time, the role of the *penghulu* was highly esteemed; responsible for registering marriages, serving as judges in religious affairs, and even the respected figure and founder of Nahdlatul Ulama (NU), KH. Hasyim Asy'ari once served as a *penghulu*. Following the Japanese occupation, this institution was transformed into the Office of Religious Affairs (KUA), and after Indonesia gained independence, KUA under the Ministry of Religious Affairs. The KUA was assigned not only marriage, divorce, and reconciliation matters but also waqf and other Islamic rituals. Hence, the MUI advocates that KUA should remain an institution exclusively for Muslims in Indonesia, based on its historical lineage.<sup>21</sup>

The subsequent argument is that the Office of Religious Affairs (KUA) serves as a form of state acknowledgment for Muslims who consented to remove seven words from the Jakarta Charter and embraced the Pancasila ideology. Consequently, restricting the KUA only to certain religions would negate its historical significance. According to the MUI Fatwa Commission in 2024, the KUA represents the government's recognition of the Muslim community, the majority in Indonesia, for their demonstrated tolerance towards non-Muslim minorities without imposing Islam as the state ideology.<sup>22</sup>

Another aspect to consider is that the KUA serves as a dedicated space for Islamic practices, such as waqf, marriages, and other religious rituals. Mixing various religious practices is deemed inappropriate, as highlighted by the MUI Fatwa

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<sup>21</sup> Departemen Agama RI, *Tugas-Tugas Pejabat Pencatat Nikah, Bimbingan Masyarakat Islam dan Penyelenggaraan Haji* Departemen Agama RI (Jakarta: Departemen Agama RI, 2004), 18-19.

<sup>22</sup> Komisi Fatwa MUI, *Konsensus Ulama Fatwa Indonesia : Himpunan Hasil Ijtima Ulama Komisi Fatwa se-Indonesia VIII Tahun 2024* (Jakarta : Komisi Fatwa MUI, 2024), 112-116.

Commission. Such blending not only contravenes religious norms but also violates the constitution, which prohibits the amalgamation of different religious doctrines.<sup>23</sup>

The Muslim community in Indonesia as the majority population in the Unitary State of the Republic of Indonesia (NKRI) requires administrative and religious services aligned with Islamic principles. Thus, it is advisable to conduct administrative affairs for non-Muslim communities, which are fewer in number, in separate institutions outside the Office of Religious Affairs (KUA).<sup>24</sup> This is outlined in the Minister of Religious Affairs Decree No. 517 of 2001 concerning the Organization of the Office of Religious Affairs (KUA) at the Sub-District level, detailing that the responsibilities of KUA focus on executing part of the Ministry of Religious Affairs' tasks at the District/City level in the Islamic domain.<sup>25</sup>

Moreover, considering Article 29 of the 1945 Constitution, which stipulates that: (1) The State is grounded on the belief in the One and Only God; (2) The State ensures the freedom of all citizens to practice their religion and worship according to their beliefs, the MUI (Indonesian Ulema Council) asserts that the Office of Religious Affairs (KUA) is an essential mechanism to meet the spiritual requirements of Muslims to enable them to practice their faith thoroughly, ensuring the continuity of human values and faith.<sup>26</sup>

Based on these considerations, the MUI recommends two actions: (a) to dismiss the idea of transforming the Office of Religious Affairs (KUA) into a service center for all religions, as it contradicts the historical role of the Ministry of Religious Affairs and the distinct service requirements of Muslims and other faith groups; (b) to halt the initiative of converting the Office of Religious Affairs (KUA) into a multi-faith service center, as it conflicts with relevant legal regulations, the social context, and the unique needs of diverse religious communities.<sup>27</sup>

The considerations mentioned by the MUI can be summarized into two key points. Firstly, the historical background of the establishment of the Office of Religious Affairs (KUA) as a political concession by the state to Islamic factions involved in

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<sup>23</sup> Ibid, 112-116.

<sup>24</sup> Ibid.

<sup>25</sup> Departemen Agama RI, *Tugas-Tugas Pejabat Pencatat Nikah, Bimbingan Masyarakat Islam dan Penyelenggaraan Haji Departemen Agama RI* (Jakarta: Departemen Agama RI, 2004), 18-19.

<sup>26</sup> Komisi Fatwa MUI, *Konsensus Ulama Fatwa Indonesia : Himpunan Hasil Ijtima Ulama Komisi Fatwa se-Indonesia VIII Tahun 2024* (Jakarta : Komisi Fatwa MUI, 2024), 112-116.

<sup>27</sup> Ibid.

the independence movement, and as a response to the modification of the Jakarta Charter by incorporating the Pancasila ideology. Secondly, KUA was specifically created to cater to the Muslim population due to their significant numbers. There are concerns that if KUA were to handle the affairs of other religions, it might overlook the interests of Muslims and lead to confusion in religious practices due to the varied rituals among different faiths.

These two main considerations are fundamentally related to the MUI's perspective on Muslims as the majority in this country. The first consideration focuses on the historical aspect. The MUI is concerned about Muslims as the majority for keeping their political identity and role intact. Muslims have historically played a crucial role in defending the country's independence compared to followers of other religions who did not actively participate in the independence struggle. The second consideration revolves around the aspect of religious sanctity. When analyzing the Minister of Religious Affairs' statement regarding KUA services for all religions, the MUI perceives an implicit message suggesting that the specific roles of KUA would be intertwined with those of followers of other religions, such as in religious endowments, worship, or marriage. However, each religion's worship practices and rites should remain distinct and should not be conflated.

The contrasting views of the MUI regarding the Minister of Religious Affairs' statement highlight the significance of the MUI's role as a representative organization for Muslims in Indonesia. The MUI has chosen to advocate for keeping KUA as an exclusive institution solely for Muslims rather than supporting an inclusive KUA for all religions. This stance indicates that the MUI believes that an inclusive KUA could dilute the historical importance of KUA, which was originally established for Muslims. Such a shift could potentially lead to the cultural and socio-economic marginalization of Muslims in this country, especially given the current disparities in economic and political statuses between Muslims and other groups.

The MUI's position is consistent with its previous fatwas, as seen in Fatwa Number 7/MUNAS 7/MUI/11/2005, which addresses pluralism, liberalism, and religious secularism, and in the Annex to the Eighth Ijtima Ulama Decision Number 2/Ijtima' Ulama/VIII/2024 on Guidelines for Interfaith Relations. These fatwas prohibit the intermingling of worship practices between different religions while advocating for tolerance towards followers of other faiths.

#### **4.2. The History and Development of the Office of Religious Affairs (KUA)**



The Office of Religious Affairs (KUA) is a government agency that falls under the Ministry of Religious Affairs at the sub-district level and is responsible for managing Islamic religious affairs within the sub-district area.<sup>28</sup> During the Japanese occupation in 1943, the Japanese government established the *Shumubu* Office, which is now known as KUA in Jakarta. The head of the *Shumubu* office for Java and Madura regions during that time was KH. Hasyim Asy'ari, who was the caretaker of the Tebuireng Islamic Boarding School in Jombang, East Java. He assigned the day-to-day responsibilities to his son, KH. Wahid Hasyim, until the conclusion of the Japanese occupation in August 1945.<sup>29</sup>

In 1946, H.M. Rasjidi, the Minister of Religious Affairs, issued Decree No. 2 to support all religious institutions and place them under the Ministry of Religious Affairs (formerly known as the Department of Religious Affairs). The Ministry of Religious Affairs was established as a department in dialogue with the historical dynamics of the nation's struggle for independence. The Ministry's establishment aimed at actualizing the spirit of the 1945 Constitution, executing Article 29 of the Constitution, and consolidating the status of *Shumubu* (Central Office of Religious Affairs) during the Japanese occupation.

The Ministry of Religious Affairs was formally established by Government Regulation No. 1/SD on January 3, 1946, coinciding with 2 Muharram 1364 H, with H.M. Rasjidi, BA being the first Minister of Religious Affairs. Since then, the organizational structure of the Ministry has been established and managed by H.M. Rasjidi, BA.<sup>30</sup>

According to Government Regulation No. 5/SD dated March 5, 1946, and Government Decree No. 2 dated April 23, 1946, the main responsibilities of the Ministry of Religious Affairs at that time included the following. Firstly, the supervision of religious matters at the residency level (*shumuka*), previously under the jurisdiction of the Resident, was transferred to the Regional Religious Office under the Ministry of Religious Affairs. Secondly, the authority to appoint Religious Leaders, Chairpersons, and Members of Religious Courts, previously held by the Resident, was transferred to the Ministry of Religious Affairs. Thirdly, the authority

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<sup>28</sup> Departemen Agama RI, *Tugas-Tugas Pejabat Pencatat Nikah, Bimbingan Masyarakat Islam dan Penyelenggaraan Haji Departemen Agama RI* (Jakarta: Departemen Agama RI, 2004), 18-19.

<sup>29</sup> Departemen Agama RI, *Buku Rencana Induk KUA dan Pengembangannya* (Jakarta : Ditjen Bimas Islam dan Urusan Haji, 2002), 15-14.

<sup>30</sup> Ibid.

to appoint Mosque Leaders, previously held by the Regent, was transferred to the Ministry of Religious Affairs.<sup>31</sup>

Since the colonial era, the organizational structure responsible for handling religious affairs has been decentralized across various regions, from the central level down to sub-districts and villages. These officials worked on a voluntary basis and were not considered civil servants. In managing affairs such as marriages, divorces, reconciliations, and endowments within the Muslim community, officials at the district level held the positions of *Penghulu*, while at the sub-district level, this role was fulfilled by the *Naib Penghulu*.<sup>32</sup>

In 1947, in line with the implementation of Law Number 22 of 1946 regarding Registration, Marriage, Divorce, and Reconciliation, individuals holding the positions of *Penghulu* and mosque officials were appointed as civil servants. Religious Court Officials, formerly occupied by the *Penghulu*, were separately appointed by the Ministry of Religious Affairs following the enactment of the law. The handling of religious affairs in villages, especially concerning marriage and death, was governed by Joint Decree Number 3 of 1947, signed by the Minister of Home Affairs and the Minister of Religious Affairs. In this decree, village religious officials (often referred to as *modin*) were granted specific rights and obligations concerning religious matters in the village, establishing an equivalent position to that of village government officials. Similar to other officials, *modin* also received compensation through rights to manage (administer) the village's *Bengkok* land.<sup>33</sup>

Since the establishment of the Ministry of Religious Affairs in 1946 until the early 1950s, political stability had not fully emerged. The Dutch, along with their allies, rejected the independence of the Indonesian nation, leading to two military aggressions and ensuing political instability and changes in the cabinet within the parliamentary system. During the war, the offices of the Ministry of Religious Affairs frequently relocated, with the government requiring every official in the Ministry to participate in the struggle for independence. Consequently, the sending of Hajj pilgrims to Mecca was temporarily suspended. The structure of the Ministry of

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<sup>31</sup> Departemen Agama RI, *Tugas-Tugas Pejabat Pencatat Nikah, Bimbingan Masyarakat Islam dan Penyelenggaraan Haji Departemen Agama RI* (Jakarta: Departemen Agama RI, 2004), 18-19.

<sup>32</sup> Departemen Agama RI, *Buku Rencana Induk KUA dan Pengembangannya* (Jakarta : Ditjen Bimas Islam dan Urusan Haji, 2002), 15-14.

<sup>33</sup> Departemen Agama RI, *Tugas-Tugas Pejabat Pencatat Nikah, Bimbingan Masyarakat Islam dan Penyelenggaraan Haji Departemen Agama RI* (Jakarta: Departemen Agama RI, 2004), 18-19.

Religious Affairs was disorganized due to political instability until the issuance of Government Regulation Number 8 of 1950 pertaining to the Organizational Structure of the Ministry of Religious Affairs. According to Government Regulation Number 8 of 1950, the Ministry of Religious Affairs is structured as follows: a) Central level comprising the Minister of Religious Affairs, the Secretariat General with the Secretariat Division, the *Penghulu* Division, the Education Division, and the Finance/Treasury Division; b) Regional level including Provincial Religious Offices, District Religious Offices, *Penghulu* Offices at the sub-district level, and Naib Offices at the sub-district level.<sup>34</sup>

To implement the Government Regulation mentioned above, in 1951, Provincial Religious Offices, Regional Religious Offices (at the Residency level), and *Penghulu* Offices (at the District level) were established in East Java. This expanded the responsibilities of the Central Religious Office in areas such as *penghulu*, mosques, endowments, and Religious Courts. With the passing of Law Number 4 of 2004 regarding the fundamentals of judicial power, Religious Courts came under the jurisdiction of the Supreme Court, while *penghulu* duties related to marriage, endowments, and mosques remained under the Ministry of Religious Affairs of the Republic of Indonesia.

Following this, religious affairs under the Ministry of Religious Affairs at the sub-district level were delegated to officials at the Office of Religious Affairs (KUA). This was outlined in the Minister of Religious Affairs' Decree Number 517 of 2001 concerning the Organization of Sub-District Offices of Religious Affairs. The KUA functions within the sub-district and reports to the Head of the Department of Religious Affairs Office in the District or City. They also collaborate with the Head of the Islamic Affairs Section (Urais) or Islamic Community Guidance. The Head of KUA is responsible for carrying out certain duties of the Department of Religious Affairs Office in the realm of Islamic religious affairs in the sub-district. Therefore, the establishment of KUA is legally supported and forms an integral part of the central government structure under the Ministry of Religious Affairs at the sub-district level.

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<sup>34</sup> Departemen Agama RI, *Buku Rencana Induk KUA dan Pengembangannya* (Jakarta : Ditjen Bimas Islam dan Urusan Haji, 2002), 15-14.

#### 4.3. The Application of The *Ahl al-Dzimmah* Concept in Understanding The Status and Citizenship Rights of Non-Muslims in Indonesia Concerning the Office of Religious Affairs (KUA)

The treatment of *ahl al-dzimmah* is outlined in the Medina Charter, which was agreed upon by Prophet Muhammad and non-Muslim groups such as the Jewish and Christian communities in Medina. The rule states, "The guarantee of Allah is only one. This guarantee or protection is provided by the government that is close to them".<sup>35</sup>

Protection and respect for non-Muslims were implemented by Prophet Muhammad through one of his hadiths, which states: "Remember, whoever acts arbitrarily against those bound by a covenant, humiliates them, burdens them beyond their capacity, or takes something from them without their consent, then I will be their adversary on the Day of Judgment." (HR. Abu Dawud).<sup>36</sup>

The existence and protection of *ahl al-dzimmah* are regulated in the Quran, Surah Al-Taubah, verse 29, which states: "Fight those who do not believe in Allah and His Messenger and who do not acknowledge the religion of truth, among those who were given the Scripture, until they pay the *jizyah* (tax) willingly and submissively" (QS. Al-Taubah: 29).<sup>37</sup> In Indonesia, a country with a Muslim majority, *ahl al-dzimmah* can be defined as non-Muslim minority groups residing together, mutually guaranteeing safety and tolerance towards one another.

In his statement, the Minister of Religious Affairs mentioned that the Office of Religious Affairs (KUA) should function as a service center for all religions. This would allow all religious followers in Indonesia to conveniently handle marriage registration and related procedures, similar to how Muslims can do so at the nearest sub-district office to their residence. The Minister emphasized that the services provided by the Office of Religious Affairs (KUA), which have been beneficial for Muslims, should also be accessible to followers of other religions to streamline the administrative process of marriage registration. He expressed his belief that the Muslim majority should be willing to share the facilities they have in order to

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<sup>35</sup> Abdul Malik bin Hisyam al-Muafiri, *Sirah an-Nabawiyah Li Ibni Hisyam* (Beirut : Dar al-Fikr,1994), 107.

<sup>36</sup> Jalaludin al-Suyuthi, *Al-Jami' al-Shaghir* (Surabaya : Al-Hidayah, 1999), 59.

<sup>37</sup> Al-Qur'an, 9: 29.

provide assistance to followers of other religions who also require support in the marriage registration process.<sup>38</sup>

Based on this argument, the starting points of the Minister of Religious Affairs and the Indonesian Ulema Council (MUI) both different. The Minister argues that the Office of Religious Affairs (KUA), as a state facility, should provide services to all citizens without exception, without distinguishing ethnicity, religion, race, or group. Meanwhile, MUI refers to the view that the Office of Religious Affairs (KUA) is an institution specifically intended for Muslims because it has played a role in maintaining independence and has been a long-standing community entity that was marginalized during the colonial period by the Dutch Colonial Government. MUI explains that if the Office of Religious Affairs (KUA) is expanded as a service center for all religions, then the unique position of Muslims in this country will receive less attention. Given that Muslims are the majority, they are entitled to such special treatment.

In comparison to the followers of other religions as defined by MUI, the concept of "specificity" in Muslim political history defines a scenario where Muslims peacefully coexist with followers of other faiths. Throughout Muslim history, there have been instances where various communities lived under of Muslim rule harmoniously, known as *ahl al-dzimmah*. Terminologically, *ahl al-dzimmah* has a specific meaning within Islamic scholarly circles. They are communities with agreements, responsibilities, and legal assurances that guarantee their safety and well-being under Muslim protection in the Islamic society. *Ahl al-dzimmah* are required to pay taxes or *jizyah* to the Islamic government in return for this safeguarding.<sup>39</sup>

In Indonesia, where the majority of the population is Muslim and the Ministry of Religious Affairs manages religious affairs on behalf of the government, citizens of other faiths are recognized as *ahl al-dzimmah*. They are entitled to protection, facilities, as well as rights and responsibilities as citizens, including in the context of marriage registration. As per the current regulations, non-Muslim citizens can only register their marriages at the Civil Registry Office or Dispendukcapil, which is limited to one office in each district/city. In contrast, Muslim citizens can register

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<sup>38</sup> Anisa Rizki Febriani, "Tak Hanya Untuk Pemeluk Islam, Menag Minta KUA Bisa Layani Semua Agama". Diakses tanggal 10 Desember 2024. <https://www.detik.com/hikmah/khazanah/d-7210353/tak-hanya-untuk-pemeluk-islam-menag-minta-kua-bisa-layani-semua-agama>

<sup>39</sup> Abdul Aziz Dahlan, dkk., *Ensiklopedi Hukum Islam* ( Jakarta : Ihtiar Baru Van Hoeve, 1996), 46-49.

their marriages at the Office of Religious Affairs (KUA) available in every sub-district throughout Indonesia.

This discrepancy has led to some marriages of non-Muslim citizens going unrecorded in Dukcapil. According to Zudan Arif Fakhrullah, the Director General of Dukcapil at the Ministry of Home Affairs, as of June 30, 2021, Dukcapil had recorded more than 66.2 million married couples. Out of this total, over 31.5 million couples have been 'registered', while 34.6 million couples have not been properly registered. The unregistered couples may be due to the fact that they solely registered their marriages at KUA, hence their data was not included in Dukcapil.<sup>40</sup>

This situation can occur due to a dualism in marriage registration. If the Office of Religious Affairs (KUA) can provide marriage registration services for non-Muslim citizens administratively, it will facilitate citizens in complying with administrative regulations more easily. In terms of implementing marriages for non-Muslim citizens at the Office of Religious Affairs (KUA), the government can appoint religious leaders from various recognized religions in Indonesia as marriage officiants according to their respective rules and beliefs. This practice will prevent any mixing of worship between religions. The Office of Religious Affairs (KUA) can become an institution that serves public needs comprehensively and equitably, including for those who belong to the *ahl al-dzimmah* group.

The author argues that there is no reason to worry about the mixing of worship issues and religions if the Office of Religious Affairs (KUA) acts as a general service center for all religions. This is because the services provided are purely administrative and do not involve elements of interfaith syncretism.

#### **4.4. The Community Responses to The Transforming the KUA as a Service Center for All Religions**

The KUA's policy to be a service center for all religions has generated various responses from the community. The community's response to the plan for KUA (Office of Religious Affairs) as a service for all religions is diverse. Some groups show

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<sup>40</sup> Zudan Arif Fakhrullah, "Status "Kawin Belum Tercatat" di Kartu Keluarga Untuk Melindungi Anak dan Istri", diakses tanggal 10 Desember 2024. <https://kumparan.com/zudan-arif-fakrulloh-fakrulloh/status-kawin-belum-tercatat-di-kartu-keluarga-untuk-melindungi-anak-dan-istri-1xwml5BP0k>

support for the government's inclusive efforts that promote religious diversity in Indonesia. On the other hand, some have expressed concerns about the implications of this policy. Some members of the community believe that this policy can strengthen inter-religious tolerance and enhance national unity. They are convinced that having KUA institutions serve all religions will help improve social harmony and create peace in a multicultural society. Conversely, there are community members who feel skeptical and worry that this policy could lead to conflicts and divisions among religious groups. They fear that the inclusive of KUA services may provoke inter-religious disputes and generate dissatisfaction among followers.

Additionally, there have been calls for the government to offer clearer and more detailed explanations regarding the implementation of this policy. The community seeks dialogue and consultations involving various stakeholders to ensure the policy can move forward smoothly and without creating tensions within society. Overall, the response from the community to the KUA policy plan, aiming to serve all religions, reflects a variety of opinions. It is crucial for the government to take into account the various inputs and concerns expressed by the community in order to create an inclusive policy that positively affects all parties involved.

As mentioned earlier, KUA, as a service center for all religions, has received both support and opposition from government elites and the general public. One perspective comes from the Director General of Hindu Community Guidance, who appreciates the Minister of Religious Affairs' initiative as an effort to facilitate Hindus in registering their marriages.<sup>41</sup> However, according to the Deputy Chairman of the MPR RI, Hidayat Nur Wahid, the plan is considered inconsistent with the historical philosophy of KUA in Indonesia, including the mandates of the 1945 Constitution. If the plan proceeds, it could lead to social and psychological issues among non-Muslims and result in procedural inefficiencies.<sup>42</sup>

According to Hidayat Nur Wahid, the Minister of Religious Affairs' proposal is seen as not considering the historical factors related to the division of marriage registration. This should serve as a reference point to ensure that the Minister's good intentions are not perceived as overstepping or being "offside." The decision is

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<sup>41</sup> Devira Prastiwi, "7 Respons Mulai Umat Hindu, Menteri, hingga Ketua MPR Soal Rencana KUA Jadi Tempat Pernikahan Semua Agama". Diakses tanggal 10 Desember 2024. <https://www.liputan6.com/news/read/5542101/7-respons-mulai-umat-hindu-menteri-hingga-ketua-mpr-soal-rencana-kua-jadi-tempat-pernikahan-semua-agama>

<sup>42</sup> Ibid.

viewed as potentially triggering disharmony when non-Muslim prospective brides and grooms are asked to register their marriages at KUA, which is usually associated with Islam. He emphasized the importance of referring to history to prevent any disharmony that may arise from the proposal.<sup>43</sup>

Several other regions with predominantly non-Muslim populations also support the Minister of Religious Affairs' proposal, such as the Office of Religious Affairs in Papua. The Head of the Religious Court Office in Papua, Klemens Taran, stated that KUA should serve all religions, not just Islam, to facilitate marriage registrations. The aim is to elevate KUA's status to that of a district-level Ministry of Religious Affairs office. He also added that by developing KUA's function as a marriage registration place for all religions, marriage and divorce data can be well integrated.<sup>44</sup>

The Ministry of Religious Affairs is preparing several KUA offices to be a services center for all religions, despite any public support or opposition. According to the Director-General of Islamic Community Guidance, Kamarudin Amin, this step is expected to enhance inter-religious harmony. It is hoped that KUA will become a place for the community to access comprehensive religious information and services.<sup>45</sup>

## 5. CONCLUSION

The Indonesian Ulema Council (MUI) primarily considers two essential principles when issuing its fatwa regarding the Office of Religious Affairs (KUA) as a service center for all religions. Firstly, from a historical viewpoint, the KUA was initially established exclusively for Muslims because of its role during the Indonesian struggle for independence against two Dutch invasions after the proclamation of independence. Secondly, when the KUA expanded its services to cater to all

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<sup>43</sup> Ibid.

<sup>44</sup> La Ramah, "Kemenag Papua mendukung KUA Jadi Sentra Pelayanan Semua Agama.", diakses tanggal 10 Desember 2024. <https://jubi.id/berita-papua/2024/kemenag-papua-mendukung-kua-jadi-sentra-pelayanan-semua-agama/>

<sup>45</sup> Kemenag RI, "Kemenag Mulai Rumuskan Jenis Layanan KUA untuk Semua Agama.", diakses tanggal 10 Desember 2024. <https://kemenag.go.id/nasional/kemenag-mulai-rumuskan-jenis-layanan-kua-untuk-semua-agama-sjpih>



religions, concerns arose about the potential blending of different faiths in worship and other activities.

In the realm of classical political jurisprudence, the concept of "*ahl al-dzimmah*" can serve as an analogy to depict the situation of non-Muslim minorities in Indonesia living amidst a Muslim-majority population. As "*ahl al-dzimmah*", non-Muslim citizens are granted certain conveniences in the marriage registration process to Muslims who can utilize the services of the Office of Religious Affairs (KUA) in each district. Nevertheless, it is crucial to emphasize that this service is administrative and is provided for all religions. In cases involving religious aspects, individuals must adhere to the guidelines of their respective religions, ensuring there is no intermingling of religious practices. []

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