

Development of Fatwa Development of The National Sharia Council of Indonesian Mui Assembly (Dsn-Mui) Related To Practice And Products in Sharia Financial Institutions

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Abstract. The DSN-MUI Fatwa's development in relation to Islamic economics is the subject of this study. By utilizing an unmistakable examination technique that is scholarly in nature, this study tracked down the way that with the improvement of different DSN-MUI fatwas in the field of Islamic financial matters, the development and improvement of Islamic financial aspects in Indonesia is progressively great. The place of the DSN MUI fatwa is one of the essentials in deciding the assurance of an item in Islamic monetary organizations. If the MUI DSN issues a fatwa to the product submitted by each Islamic financial institution's Sharia Supervisory Board. So that sharia banking products comply with the guidance of Islamic law and the provisions of the fatwa become the legal umbrella in carrying out products that are of interest to customers. Moreover, until it is legalized by law and Bank Indonesia Regulations. So that the DSN MUI fatwa becomes a binding legal provision for all Islamic financial institutions. Thus, the provisions of the fatwa indirectly become one of the factors that determine the continuity of all business operations in Islamic financial institutions that have benefits and blessings for all parties who run them, both for LKS as the authority that has product offerings and for customers. as a product user.

Keywords: Development, Thinking, DSN-MUI Fatwa, Sharia Economics.

1. Introduction

The field of Muamalah is one of the fields of ijtihad which demands new answers in the field of economics or finance. In this field, several forms of transactions appear whose nature has never been encountered in the past. In Indonesia, the rules regarding Islamic economic law are regulated through the DSN MUI fatwa, although the nature of the fatwa is advisory and not binding in the legal system in Indonesia, it remains a reference in knowing the process of Muamalah according to Islamic law. Moreover, this Muamalah issue is a matter that is more open to ijtihad than other religious fields.

The establishment of Islamic financial institutions in Indonesia requires practical guidance and supervision to ensure that the economic activities carried out do not deviate from Islamic economics' principles. The National Sharia Council was founded by the Indonesian Ulema Council and is structurally governed by the MUI. [1]. However, laws and regulations have not strictly governed the National Sharia Council itself. The Public Sharia Gathering is a board laid out by the Indonesian Ulema Committee (MUI) with the obligation and position to guarantee

that items, administrations, and bank business exercises stick to sharia standards, as expressed in Article 1 of PBI No.6/24/PBI/2004.[2]

The Islamic Ulema Council (MUI) issues sharia fatwas to Shari'ah economic practitioners, society, and government (regulators) regarding Islamic financial institution practices and products. The fast improvement of Islamic monetary establishments should be adjusted with substantial and precise shari'ah legitimate fatwas so each of their items have areas of strength for a premise. As a result, the Indonesian Ulema Council's 1999 creation of the National Syari'ah Council (DSN).

In the Islamic legal system, fatwas have a fairly dominant role in providing religious legal contemplations to the public despite the fact that fatwas don't have restricting legitimate power. However, the fatwa status of religious institutions, particularly the Indonesian Ulama Council's, has a significant impact on Indonesian society. For instance, it is evident that the community responded to the MUI's 2003 fatwa regarding the prohibition of bank interest, which had a significant impact on people's lives.

The DSN-MUI has issued at least 150 fatwas in the field of Sharia economics from 2000 to the present.[3] The growth and development of the Sharia economy in Indonesia are truly amazing. The fatwa issued by the DSN-MUI is attached by Bank Indonesia (BI) as a regulator of Islamic banking activities. In making guidelines, BI involves the DSN-MUI fatwa as a kind of perspective in planning Bank Indonesia Guidelines and furthermore Round Letters that are outer in nature and don't allude to fatwas gave by establishments other than DSN-MUI. The DSN-MUI fatwa is the most fundamental requirement for new products issued by Islamic banking institutions as well as for Islamic banking operations.

It shows that the fatwa of the Indonesian Ulema Council has had an influence on the social order of the Indonesian nation as a whole. The fact shows that MUI fatwas have an important role in society even though MUI fatwas are not legally binding, in practice they are often used as references by the community. The strong influence of the MUI fatwa causes the MUI to be more responsive to the dynamics that exist in people's lives so that the fatwas issued are in line with the benefit. Therefore, the authors in this paper want to explain how the development of the DSN MUI's fatwa thinking is related to practices and products in Islamic financial institutions so far.

2. Research Method

This study is using a qualitative descriptive research method with a historical approach. Data were obtained from various data sources such as previous research, books, and various sources.

3. Discussion

3.1 Concept of Fatwa

Fatwa comes from Arabic (الفتوى) which means advice, advice, answer, or opinion.[4] According to Imam Zamak Hsyari in his book al-Kasyaf, the meaning of a fatwa is a flat or straight path.[6] Fatwa refers to an opinion offered by a mujtahid or faqih in response to a request for a fatwa in a non-binding case in the science of Ushul Fiqh. The fatwa's language refers to an answer regarding the answer.[7] Some decode the word fatwa in 2 versions, namely:

- a) Fatwa: (decision, opinion) given by the mufti on a matter.
- b) Fatwas: advice from pious people, good lessons, and advice.[8]

Wahbah al-Zuhaili defines the fatwa as "Answers to questions regarding Sharia law that are non-binding in nature." [9] Yusuf al-Qardhawi, on the other hand, defines the fatwa as "a statement or provision of syara' law of a problem as an answer to a question," regardless of whether the person asking the question is identified, both individually and collectively. [5]

The definition of a fatwa according to the Big Indonesian Dictionary is divided into two meanings, namely: (1) an answer in the form of a decision or opinion given by the mufti/expert about a problem; and (2) advice of pious people; good lesson; and advice. [10]

A fatwa is a non-binding opinion provided by a mujtahid or faqih in response to a question posed by a fatwa requester, according to the Science of Ushul Fiqh. On the other hand, al-fatwa refers to legal advice, advisors, and responses to questions [11]. The fatwa can be requested by individuals, organizations, or community groups. In terms of Usul Fiqh, the Mufti is the party issuing the fatwa, and Al-Mustafti is the party requesting the fatwa.

Prof. Amir Syarifuddin says that the word "fatwa" comes from the word "afta," which means "explaining." Conclusively, a fatwa is an endeavor to give a clarification of syara regulation by specialists to individuals who don't know it. [9] While a fatwa as per the importance of Shari'a is a clarification of Shari'a regulation noting a case presented by somebody who asks, whether the clarification is clear or unsure and whether the clarification prompts two interests, in particular private interests, or the interests of the local area at large. [9]

However, some jurists state that "fatwa" is Arabic which means "answers to questions", or "results of ijihad", or "legal decisions", the meaning is statutes or legal decisions regarding an issue or event declared by a mujtahid as the result of his ijihad. According to the legal documents, mujtahids and muftis differ in that they prescribe (conclude) laws from the Qur'an and Sunnah in a variety of situations, regardless of whether other parties request them. Regarding the mufti, he does not issue his fatwa unless asked to do so, and any questions posed to him are ones to which he is able to provide an answer. Therefore, when dealing with a legal issue, the mufti must have a thorough understanding of the situation, take into account the fatwa requester's benefit, the context, and the objectives of the fatwa.

From the description above, it can be seen the nature and characteristics of the fatwa as follows:

1. It is an attempt at explaining.
2. The explanation given is about syara's law which is obtained through the results of ijihad.
3. The one who explains is a person who is an expert in the field he is explaining.
4. The explanation is given to people who ask who do not know the law.

3.2 Methods and Process of Determining Fatwas Regarding Islamic Economics

Searching for answers to new problems that have not been covered in the Qur'an and Hadith through ijihad activities requires skills and strict requirements. Ijihad activities can only be carried out by people who have fulfilled certain conditions and criteria. The strict requirements and criteria to be able to carry out ijihad, it is not possible for everyone to carry out ijihad so they must follow the opinion of the experts (ulama). In this case, including asking for opinions or explanations from people who have competence in answering or providing the legal status of the problem at hand. In facing the demands of society and business competition, Islamic banking and financial institutions require innovative products. For this reason, Sharia fatwas and regulations are needed to support the implementation of these innovative products.

Because the method used to issue a fatwa is very important, this method must be used in every process for determining a fatwa. As a fatwa that is stated without a methodology, the resulting legal decision lacks solid arguments. Therefore, in every fatwa determination process, the method (manhaj) must be used.[12]

The stages in establishing a fatwa in general can be seen as follows:

- a. Before a fatwa is given, the assessment of the clerics of the ways of thinking in regards to the issue to be fatwa ought to be explored cautiously alongside its contentions.
- b. Al-ahkam al-qath'iyat entails presenting issues in their current form.
- c. Regarding khilafiyah, various schools of thought, then:
 - a. The al-jam'u wa al-taufiq strategy is utilized to decide fatwas in view of the aftereffects of endeavors to figure out something worth agreeing on between different ways of thinking; The results of tarjih using the muqaranah al mazahib method and the ushul fiqh muqaran rules are used to determine a fatwa in the event that finding a common ground is unsuccessful..
 - b. In matters where no lawful assessment is found among the ways of thinking, the assurance of a fatwa depends on the consequences of jama'i ijti had (aggregate through the bayani, ta'lili, qiyasi, istihsani ilhaqi) terms and saad aldzari'ah.
 - c. When formulating fatwas, the public good (mashalih'ammah) and muqasyid al-shari'ah must always come first. Assurance of fatwas with respect to the Sharia economy in Indonesia turns into the power of the Public Sharia Committee of the Indonesian Ulama Gathering which is brought out through an entire gathering went to by all individuals from the Public Sharia Board Indonesian Ulema Chamber (DSN MUI) comprising of sharia specialists and monetary/monetary specialists who have knowledge sharia as well as including accomplice establishments, for example, Bank Indonesia or other monetary power foundations and business entertainers, whether banking, protection, capital market, or others.

The MUI fatwa commission approaches the process of establishing a fatwa in three ways, which are as follows:

- a. The qath'i approach, to be specific the qath'i approach is done by sticking to the texts of the Qur'an and Hadith for an issue in the event that the issue set is contained in the texts of the Qur'an or al-Hadith.
- b. The quality methodology, specifically the methodology during the time spent laying out a fatwa by putting together it with respect to the assessments of the clerics of ways of thinking in driving fiqh books (al-kutub al-mu'tabarah).[13] This approach is completed on the off chance that the responses can be satisfied by conclusions in driving fiqh books.
- c. The manhaji approach, or the method of formulating a problem developed by the imam of the school of thought and based on fundamental principles (al-qawaid al-ushuliyah), is used in the process of making a fatwa. The manhaji approach is helped out through aggregate ijti had (ijti had jama'i), utilizing the strategy for uniting various feelings (al-jam'u wat taufiq), picking an assessment that has a more grounded contention (tarjih), analogizing the issues that emerge with the issues that have been The law is specified in the books of fiqh (ilhaqi), and istinbati, which is the technique utilized when the ilhaqi technique can't be completed on the grounds that there is no identical assessment (mulhaq bih) in al-post almu'tabarah. The qiyas, istihsan, and saad al-dzari'ah methods are used in the istinbati method[13].

When issuing fatwas, the DSN-MUI always considers the general benefit and maqasid shari'ah. This ensures that the fatwa can provide a solution to community issues and serve as a guide for running a Sharia economic business in Indonesia. The progression of fatwa assurance viewing Sharia financial matters is as per the following:

- a. Legal suggestions or inquiries regarding a product of an Islamic financial institution are received by the DSN-MUI Daily Executing Agency. Practitioners of economic institutions can send these legal proposals or questions to the Sharia Supervisory Board or directly to the DSN-MUI Daily Executing Agency's secretariat.
- b. Problems must be reported to the chairperson by the secretariat, which is led by a secretary, within one business day of receiving proposals and questions.
- c. A special memorandum containing a review and discussion of a question or legal proposal must be made by the chairman of the DSN-MUI Daily Executing Agency, members of the DSN-MUI BPH, and expert staff within 20 working days.
- d. The discussion's outcomes are then presented for approval by the chairman of the DSN-MUI Daily Executing Agency to the MUI National Sharia Council's plenary meeting.
- e. The update that has gotten endorsement from the DSN-MUI whole not entirely set in stone to turn into the DSN-MUI fatwa. The DSN-MUI's chairman, who is also the MUI's ex officio general chair, and secretary, who is also the MUI's ex officio general secretary, both signed the fatwa[13].

The fatwa issued by the DSN-MUI is a binding reference for Islamic financial institutions (LKS) in Indonesia and binds people who interact with LKS.

3.3 The National Sharia Council of the Indonesian Ulema Council

The existence of regulations that regulate the Islamic economy from the Banking Law of 1992 until 1998, felt the need and importance of an institution that can provide answers to questions regarding the Islamic economy, where the answers will be used as the basis for carrying out Sharia economic activities.[14] The background to the formation of the National Sharia Council is the existence of regulations that regulate the Islamic economy from the Banking Law of 1992 until 1998.

This background was finally discussed in the Ulama Workshop on Reksa Sharia Funds on 20-30 July 1997 which at the same time discussed [15] Sharia views on mutual funds. The results of the workshop are recommended to create an institution as a forum for the needs of economic practitioners.[16] This means that the initial formation of the DSN began in 1997 as revealed by Muhammad Syafii Antonio [15] but SK its formation was approved by the MUI two years ago, namely on the 10th February 1999 with SK MUI No. Kep-754/MUI/II/1999.

Duties and authorities are contained in Appendix II SK MUI No. Kep-754/MUI/II/1999 concerning the Establishment of the National Sharia Council. The duties of the DSN are as follows:

- o Developing the utilization of Sharia values in exercises the economy overall and money.
- o Financial activities such as issuing fatwas
- o Issuing fatwas on Sharia monetary items and administrations.
- o Keep an eye on how the given fatwas are put into practice.[17]

While the Power of the Public Sharia Board (DSN) is as per the following:

1. Issuing a fatwa that ties the Sharia Administrative Board in each Islamic monetary organization and turns into the reason for lawful activities of related parties.

2. Issuing a fatwa which shapes the reason for arrangements or guidelines gave by approved offices, for example, (the Service of Money) and Bank Indonesia.
3. Provide proposals as well as deny suggestions for names that will sit on the Sharia Administrative Board in a Monetary Foundation Sharia.
4. Inviting specialists to make sense of a necessary issue in conversation of Sharia financial aspects, including money related specialists/monetary establishments inside and outside the country.
5. Issue a warning to Islamic financial institutions to refrain from violating the National Sharia Council's fatwa.
6. In the event that the warning is ignored, suggest that the appropriate authority take action..[17]

3.4 Development of Thoughts on the DSN MUI Fatwa Concerning Sharia Economics

Currently, there are 150 fatwas of the National Sharia Council (DSN) of the Indonesian Ulema Council (MUI) regarding Sharia Finance and Banking.[3] It can be seen as follows:

The number of DSN-MUI fatwas can continue to increase according to requests for fatwas from individuals or Islamic financial institutions regarding new Islamic economic and financial products in Indonesia. Sharia economic practitioners, society, and government (regulators) still need fatwas from the DSN-MUI regarding the practices and products of Islamic economic institutions

4. Conclusion

The Indonesian Ulema Council's National Sharia Council is the DSN-MUI, an independent organization that uses fatwas for economic, financial, and banking issues. Because of the strong influence of the MUI fatwa, the MUI is more responsive to the dynamics that exist in the lives of people so that the fatwas that are issued are in line with the benefit. The DSN-MUI Fatwa's thinking will continue to develop along with the current developments in the Islamic economy. Presently, there are 150 fatwas of the Public Sharia Chamber (DSN) of the Indonesian Ulema Gathering (MUI) connecting with Sharia Money and Banking.

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