

Manhaj Fiqih Mua'malah National Sharia Board-Indonesian Council of Ulama

Irham Khalid^{1*}, Andri Soemitra²

Univesitas Islam Negeri Sumatera Utara, Medan, Indonesia

*Email: Irhamkhalid34@gmail.com

ABSTRACT

Along with the development of the Islamic economy in today's society, the legal questions that arise regarding the sharia economy continue to grow along with the development of the Islamic banking and finance industry lately. fiqh Mu'amalah. Then MUI as an institution that has the authority to issue fatwas is very interesting to study. The fatwa of the National Sharia Board of the Indonesian Ulema Council (DSN MUI) has become an inseparable part of the development of the Islamic finance industry in Indonesia. Many of the DSN-MUI Manhaj Fatwas use Islamic legal solutions as their basis. This research uses qualitative research and divides it into 2 themes of discussion, namely 1. The DSN-MUI Manhaj Fatwa method, 2. The role, significance and position of the DSN-MUI fatwa.

Keywords: Manhaj, Fatwa, DSN-MUI

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INTRODUCTION

When Islamic economic thought has begun to be echoed, then there are some people who think that the Islamic economic system is a solution and not least that Islamic economics will give birth to stagnation and limitations that result in setbacks in the economic field. Such thoughts arise only because of ignorance Islamic reference sources and characteristics. In Islam, it is impossible to change only the basic principles of sharia and various basic foundations. In terms of a conditional nature, for example regarding technical matters, Islam still refers and refers to the source of origin while at the same time involving the role of reason. This role is then referred to in fiqh terminology as *ijtihad*.

However, directly making the Islamic economic system an option instead of the current conventional economic system is not an easy thing. There are also parties who believe and fight for the Islamic economic system as an alternative economic system that is just and is considered one eye. The pessimistic view of those who are diligent and serious in fighting for the sharia economic system is still audible. But over time, the struggle for the recognition of the Islamic economic system as an alternative economic system began to be accepted.

Islam as a universal religion has comprehensive religious teachings that cover all aspects of human life, including the economy. So that the Islamic economy as the scope of *muamalah* gives birth to sub-systems, such as the Islamic financial transaction system which is of concern to the public about the validity of the system which is behind the public's demands for the DSN-MUI fatwa, because the entire Islamic financial system is not just a profit-oriented commercial transaction but must have reached the level of transactions that are truly in accordance with sharia guidelines. The form of a financial system or financial institution that is in accordance with sharia principles is free from elements of usury, *maysir*, *gharar*, *haram* and *unjust*.

The Islamic banking and finance industry has experienced rapid development and progress, with the birth of: sharia banking, sharia insurance, sharia pawnshops, sharia capital market with sharia shares as instruments, sharia bonds (*sukuk*), and sharia mutual funds, and *baitul mal wat-tamwil* (BMT). Likewise in the real sector, such as: sharia hotels, sharia multilevel marketing, sharia hospitals, etc. Things that must be addressed carefully and thoroughly so that this development does not end in stagnation, of course, the development of the quality of human resources which is one of the important indicators in sharia economic growth.

Legal issues that arise related to sharia economics continue to grow and are not and certainly cannot be limited, because fiqh is dynamic in accordance with the times, while the number of texts is limited and has stopped, does not go down again. In such a situation, the scholars are obliged to help the Muslims through *ijtihad* and giving fatwas regarding the law on these new issues. Allowing people to answer their own legal questions is very dangerous.

In the perspective of Islamic law, there are two legal essences, namely sharia and fiqh. Sharia is a rule of law that is determined directly by the Qur'an and Sunnah. While fiqh is a rule of law which as a whole is the result of the *ijtihad* of scholars. *Ijtihad* is very necessary at this time as an answer to various problems that did not exist in the past. *Ijtihad* is also needed in the development of sharia economic law. In *fiqhiyyah* rules, that legal changes in fiqh can be justified, it can even become a necessity if the sociological conditions of society change. A rule regarding legal changes attributed to Ibn Qayyim al-Jauziyyah reads:

"Changes and legal differences are caused by differences in place, time, conditions, motivation and culture".

This paper aims to analyze the current *ijtihad* in the field of sharia economics in Indonesia which is being carried out by the MUI through the National Sharia Council and how to apply a fatwa on sharia economics in Indonesia. Determination of fatwas regarding the permissibility or prohibition of financial instruments which are *ijtihad* which is the basic reference in making positive law in Indonesia, this research is limited to two topics of discussion, namely 1. The Manhaj Fatwa method of the DSN-MUI and 2. The role, significance and position of the DSN- MUI

METHOD

This study uses qualitative research methods, namely content analysis of papers from the Google Scholar database and interviews using the Focus Group Discussion technique. The content of the analysis paper is used to get the mapping and main themes discussed in the Google Scholar database at a certain time for further analysis of the contents (content analysis). Focus group discussions are used to gain the perspectives of academics in the field of Economics regarding their understanding of the themes discussed in this review paper.

The paper selected in this review comes from a search on the Google Scholar database with the keywords Manhaj and fatwa and Indonesia in the period 2018 to 2021. The search process uses the help of the Publish or Perish. In the first stage, the author searches for papers in the Google Scholar database with the keywords "Manhaj" and Fatwa" and Indonesia. 150 papers that match the search keywords. After going through the process of reading the title, abstract, and key words of the paper. Furthermore, in the final stage, the author obtained 10 papers as reviewed papers in this research.

RESULTS AND DISCUSSION

Analyzing research maps related to Manhaj DSN MUI in Indonesia in the last 5 years on the Google Scholar database. Paper search results by keyword

No	Author Number and Year	Title
1.	(Helmi, 2018)	Manhaj Determination of the Fatwa of Sharia Economic Law in Indonesia
2.	(Fateh, 2018)	Philosophical Construction of the DSN-MUI Fatwa
3.	(Ansori & Ulumuddin, 2020)	Position of the Fatwa of the Indonesian Ulema Council (MUI) In Islamic Law
4.	(Iqbal, 2020)	The Talfiq Manhaji MUI Method in Fatwa
5.	(Ma'mur, 2018)	The Role of the MUI Fatwa in the Nation and State (Talfiq Manhaji as a Methodology for Determining the MUI Fatwa)
6.	(Abdad, 2019)	Significance of the Fatwa DSN MUI Against Sharia Economic Development in Indonesia
7.	(Rahman, 2021)	Working Procedure For Establishing Mui Fatwa: Tracing Characteristics of MUI Ushul Fiqh in Deciding Law
8.	(Sururi, 2021)	Islamic Economic and Finance Fatwa

No	Author Number and Year	Title
9.	(Darti, nd)	The Role Of The Fatwa Of The Indonesian Ulama Assembly (MUI) In Legal Development In Indonesia
10.	(Haidar, 2021)	Application of the Rule of Hal Al-'Ibrah bi Shiyagh Al-'Uqud aw bi Ma'aniha in the Fatwa of the National Sharia Council (DSN) of the Indonesian Ulema Council (MUI)

From the selected articles in Table 1, the articles use the p . method qualitative research (100%), these articles were further grouped based on the topics in each article and linked to the Manhaj Fiqh Muamalah DSN-MUI. The results of this classification are further analyzed to find out what are the most widely discussed topics, and which topics are very suitable for the topic of this research.

No.	Composition of Articles by Topic			Number of Articles by Year of Publishing			
	Topics	Total	%	2018	2019	2020	2021
1	Method Manhaj fatwa DSN-MUI	7	70%	3	-	1	3
2	The role, significance and position of the DSN-MUI fatwa	3	0%	-	1	2	
Total		10	100%	3	1	3	3
				30%	10%	30%	30%

The DSN-MUI Manhaj Fatwa

Method The method is the most important thing in the *istinbath* , so as an institution that has the authority to issue fatwas, the manhaj method applied by DSN-MUI is very interesting to study because the method is closely related to education to the ummah and the output of the fatwa produced by the DSN-MUI.

One article discusses the manhaj method carried out by DSN-MUI, namely the Manhaj for Determining the Fatwa of Sharia Economic Law in Indonesia (Helmi, 2018) where in this article it is discussed that there are four methods used by DSN-MUI in providing the requested explanation regarding Islamic law in particular. muamalah, the four methods are:

1. *Al-taysir al-manhaji* Al-taysir al-manhaji can be interpreted as choosing a light opinion but still according to the rules. Although taking a more lightening opinion, it is still within the existing manhaj corridor. This means that the DSN-MUI fatwa will provide a way out by providing the best solution as long as it does not conflict with sharia. However, the use of this method should not be done excessively. This is not justified because it creates a belittling attitude. MUI is "to use a more honest and more beneficial opinion whenever possible; if not, then what is used is the opinion that is more beneficial (only)". An example is the application of the rules of establishing sharia economic law,

which so far have been known to have two views, namely a substantive view that makes the goal/final result and content (*al-maqasid wa al-ma'ani*) unnecessary in determining the law; and the legal-formal view that uses words/sentences and forms (*al-alfaz wa al-mabani*) as an urgency in determining the law. This method is in line with the thesis on Application of the Rules of Hal Al-'Ibrah bi Shiyagh Al-'Uqud aw bi Ma'aniha in Fatwa of the National Sharia Council (DSN) of the Indonesian Ulema Council (MUI) (haedar 2021)

2. *Tafriq al-halal 'an al-haram* The next method is related to the separation between halal and non-halal assets (at-tafriq bain al-halal 'an al-haram). Generally, people understand that the mixture between the lawful and the unlawful will win the unlawful. The consideration of using the *tafriq al-halal 'an al-haram* in the DSN-MUI fatwa is that in the Indonesian context, sharia economic activities cannot be completely separated from the usurious conventional economic system. Islamic economic institutions are still related to conventional economic institutions that are usurious from the aspect of capital, product development, and profits.
3. *I'adah al-nazar* The next method in an effort to apply the solution of fiqh is i'adah al-nazar (review). A review of the opinions of previous scholars can be carried out in the event that the opinions of previous scholars are considered no longer suitable to be guided by factors that are difficult to implement. One way to do this is by re-examining mu'tamad opinions by considering legal opinions that have been considered weak (marjuh) and even mahjur, because of the existence of a new legal illat and/or those opinions that are more beneficial; then the opinion is used as a guide (mu'tamad) in establishing the law. This method is a middle or moderate way among the thoughts of sharia economic law experts who are too loose (mutasahhil) in applying the principles of sharia economic law. the representative may rent the object entrusted to him for rent.
4. *Tahqiq al-manat* (analysis of determining legal reasons/'illat), namely analysis to find out the existence of other legal reasons ('illah) in one case, other than the previously known 'illah, either through nas, *ijma'*, or *istinbat*. In this regard, KH Ma'ruf Amin said that Umar bin Khattab's not giving the zakat share to the *Muallafatu Qulubuhum* and not implementing the punishment of cutting off hands for thieves during times of famine or hunger are examples of the results of applying *tahqiq al-manat*. KH. Ma'ruf Amin admits that the *tahqiq al-manat* method has been widely known by previous scholars; therefore, the invitation is to revitalize it so that Islamic law becomes more dynamic. An example of its application is the DSN-MUI Fatwa No. 77/DSNMUI/V/2010 concerning Gold Murabaha

Then the next article that discusses the DSN-MUI fatwa method is the Work For The Establishment of MUI Fatwas: Tracing the Characteristics of the MUI Ushul Fiqh in Deciding the Law (Rahman, 2021) and the Philosophical Construction of the DSN-MUI Fatwa (Fateh, 2018). In this article, it is discussed that there are three approaches used by the DSN-MUI fatwa commission in giving fatwas, namely the Nash Qati'i approach, the Qauli approach and the Manhajy

Approach the Nas Qat'iy approach is carried out by adhering to the texts of the Qur'an and Hadith to there is a problem if the problem specified is contained in the texts of the Qur'an or al-Hadith clearly. If it is not found, then a *qauli*, namely an approach in the process of determining fatwas by basing it on the opinions of the priests of schools in leading fiqh books (*al -pole al-mu'tabarah*). [16] This approach is carried out if the answers can be satisfied

by opinions in leading fiqh books, the exact same approach is carried out as the method outlined in the first article, namely *I'adah al-nazar*. And if it is not found, then a manhaji approach is carried out. The manhaji approach, namely the approach in the process of determining the fatwa that uses the basic principles (*al-qawaid al-ushuliyyah*) and the methodology developed by the priest of the school of thought in formulating a problem. The manhaji approach is carried out through collective *ijtihad* (*ijtihad jama'i*), using the methods: bringing together different opinions (*al-jam'u wat taufiq*), choosing an opinion with a stronger argument (*tarjih*), by analogizing the problems that have arisen with problems that have already occurred. the law is stipulated in the books of fiqh (*ilhaqi*), and *istinbathi* is the method used when it cannot be done with the *ilhaqi* method because there is no equivalent opinion (*mulhaq bih*) in *al-kutub al-mu'tabarah*. The *istinbathi* method is carried out by applying the *qiyas*, *istihsan*, *sad al-dzari'ah*

There are also articles that write about the methods used by DSN-MUI in giving fatwas using the Talfiq method, the MUI Talfiq Manhaji Method in Fatwa (Iqbal, 2020) and the Role of the MUI Fatwa in the Nation and State (Talfiq Manhaji as a Methodology for Determining MUI Fatwas) (Ma' myrrh 2018)

This method can be said to be a very relevant method used by DSN-MUI because the orientation of *talfiq manhaji* is to find solutions that are relevant to social situations and conditions and avoid things that are prohibited in Islam, such as division, hostility, and political instability that interfere with the development process. nation. The building of the MUI Fatwa Commission method, which is able to combine various methods of the priests of this madhhab, is interesting to study and develop so that it is stronger and able to answer social problems that arise. It can be said that the Talfiq Manhaji method is a big step that has been successfully carried out by DSN-MUI because it has succeeded in eradicating fanaticism towards only one school.

Meanwhile, the Fatwa article on Islamic Economics and Finance (Sururi, 2021) focuses more on the process. starting from submissions by applicants from financial institutions, practitioners, the public, then followed up with a long discussion between the DSN-MUI Daily Management Board and inviting the government as regulator and parties deemed able to provide constructive input.

From the results of the article above, it can be said that the method used by the DSN-MUI fatwa commission is still very relevant and responsive to what is needed by the community. And these methods are still very possible to be investigated further and in more detail in accordance with contemporary muamalah problems today.

The role, significance and position of the DSN-MUI fatwa

There are three articles that discuss this topic, Namely The Role Of The Indonesian Ulama Council (MUI) Fatwa In Legal Development In Indonesia (Darti, nd), in this article it is explained that the MUI fatwas are grouped into three categories The main ones are a). Fatwas on religion which include fatwas on matters of faith and religious sects, fatwas on matters of worship, fatwas on socio-cultural matters and fatwas on issues of science and technology, b). Fatwas on halal products that discuss standardization of halal fatwas and fatwa on the halalness of food, beverage, drug and cosmetic products and c). fatwa on sharia economics

The role of DSN-MUI with the birth of law in Indonesia is undeniable and this connection can be seen with the issuance of Law No. 21 of 2008 concerning Islamic Banking whose establishment was based on the fatwa of the MUI. Prior to the issuance of the Law on

Sharia Banking, Bank Indonesia used the DSN-MUI fatwa as a reference in sharia banking, including: Fatwa 01/DSN-MUI/IV/2000 concerning Current Accounts; Fatwa 02/DSNMUI/IV/2000 concerning Savings; Fatwa 03/DSN-MUI/IV/2000 concerning Deposits; Fatwa 04/DSN-MUI/IV/2000 concerning Murabaha; Fatwa 07/DSN-MUI/IV/2000 on Mudharabah; Fatwa 28/DSNMUI/III/2002 concerning the Sale and Purchase of Currency (Al Sharf) etc.

Although this research can be said to have opened our horizons for thinking about the contribution of Muslims to Indonesia through the MUI, it is still quite good, but it is still open for further detailed research to examine more deeply about each product of the law that was born from the results of the DSN fatwa. - MUI which does not only study economic issues but also in terms of the judiciary.

The next article is the Significance of the MUI DSN Fatwa on the Development of Sharia Economics in Indonesia (abdad, 2019) and it is concluded that the DSN-MUI Fatwa has significance as a set of legal rules that can be guided by the community. The DSN MUI fatwas have legal legitimacy based on Law no. 21 of 2008 concerning Islamic Banking.

Since the enactment of Law no. 21 of 2008 concerning Sharia Banking, which requires stakeholders to pay attention to and adjust business activities in accordance with sharia principles, namely regarding the issue of sharia compliance (sharia compliance) whose authority lies with the Indonesian Ulema Council (MUI) which is represented through the Supervisory Board Sharia (DPS) which must be established in each Sharia Bank and Sharia Business Unit.

The significance of the DSN-MUI Fatwa can be said to be a big leap in the development of positive law in Indonesia and it continues to be interesting to study by looking at the origin of the fatwa being born and the most appropriate method for the birth of the fatwa, so this research is still interesting to continue considering that the development of sharia economics which certainly keeps up with the times.

Then there is also an article that discusses the Fatwa Position of the Indonesian Ulema Council (MUI) and the Fatwa Institution in Indonesia (Ansori & Ulumuddin, 2020). This article not only discusses the DSN-MUI fatwa commission but also the fatwa method carried out by Nahdlatul Ulama with Bahsul Masail and Muhammadiyah with the Tarjih Council. However, the aim is not to compare and find the best among the fatwa institutions, only to explain the method and position of the fatwa institution for every decision taken by the government as a regulator.

CONCLUSION

The conclusion of this article that *First*; the legal determination of the three fatwa institutions in Indonesia still pays attention to various aspects that surround the law when it is produced. This allows the fatwa institution to place *ra'yu* above *text*. *Second*; In the legal system in Indonesia, fatwas are not binding on Muslims in Indonesia in general. Fatwas are not state laws that have sovereignty and legality, nor do Muslims in Indonesia have to follow them. *Third*; in determining contemporary problems, the MUI fatwa, lajnah bahstul masail and the tarjih assembly basically try not to clash with local culture in Indonesia. However, stick to the selective and measurable interpretation of the nash. The Indonesian Ulema Council (MUI) as a gathering place for Muslim scholars and intellectuals has a large role and influence in the existence of Islam in Indonesia. Islamiyah in the Republic of Indonesia. In this article, there are 10 articles that I think are related to the Manhaj DSN-MUI in providing fatwas needed by the community. It can be said that the very large role of the MUI really

affects people's expectations of every problem and question they face, especially problems in muamalah fiqh which are directly related to sharia economic problems. So it can be said that the method used by the DSN-MUI fatwa commission is still very appropriate and responsive in answering every problem faced by the people. And it can also be said that the fatwa issued by DSN-MUI really elaborates according to the needs of the people and the method used by DSN-MUI is a method that unites all opinions from each school with the main purpose of these fatwas being for the common good.

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