


## The Role And Authority Of The National Shariah Council In The Development Of Shariah Economic Law In Indonesia

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Article Info	ABSTRACT
<p><b>Keywords:</b> The role and authority of DSN, Sharia Economic Law</p>	<p>The role and authority of the National Sharia Council (DSN) in push development law sharia economy in Indonesia. DSN is competent authority issue a related fatwa products and services Islamic economics. Therefore that, presence they is tool important For build trust public to system economy based on sharia. The research method used is approach qualitative with analysis legal norms of law, through review to instrument laws, DSN fatwas, and regulations related law Islamic economics in Indonesia. Research results This show that DSN plays a role strategic in align sharia principles and law positive in Indonesia with issued a fatwa that became reference regulation government and actors industry. In addition, DSN plays a role in monitor implementation Sharia principles and educate community and stakeholders interests. However, the challenge covering limitations source power, coordination inter-institutional, and dynamics need industry that continues developing. DSN plays role important in development law Sharia economy in Indonesia. However, for optimize role this, is required more synergy big between DSN, government, and actors industry.</p>
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### INTRODUCTION

Muslims in the world in life in society set up with religious values, in general textual rule That there is in the Qur'an and Hadith of the Prophet. Islam rules order life with perfect, no only arrange someone's worship problem to God, but also rules problem transactions that is connection fellow human, relationship man with other creatures and with natural surrounding areas, such as social culture, agriculture, technology, no except in the field of economy. Islamic economy is A system Sharia in activity economy based on sharia principles or law Islam. System This No only arrange aspect economy only, but also to integrate moral and ethical values that become base interaction economy in society. In terms of this, economy Islam aiming For reach equal and guaranteed prosperity peace with avoid harmful practices like usury, gharar, and maysir. The system This based on the teachings of the Koran and Hadith, which provide very clear guidelines How method transactions, management and responsibility answer social individual. In economics Islam, every individual expected No only focus on profit individual, but also consider impact social from activity the economy that is carried out. Therefore that, the principles such as zakat, alms, and justice in distribution wealth is very important For create prosperous society.

Development law Islamic economy in Indonesia along with with the more increasing need public to service finance and products economy sharia- based. System Islamic economy is here as alternative from system economy traditional based on sharia principles and aims For create justice and welfare for all parties. In the context of This, the National Sharia Council (DSN) became role important in ensure that all over products and services Islamic finance complies with sharia principles and achieve compliance expected by the community Indonesian Muslims. The National Sharia Council (DSN) was established by the Indonesian Ulema Council (MUI) with objective main develop sharia guidelines for institutions and businesses Islamic finance in Indonesia.

DSN has authority issued a fatwa that became base law operation various institution Islamic finance, such as banks, companies insurance, capital markets, and sectors finance others. The fatwa issued by the DSN will also become reference for Financial Services Authority (OJK) and Bank Indonesia (BI) in compile regulation industry Islamic finance. However, DSN face various challenge in operate his mandate, starting from difference understanding public about Sharia principles to adaptation to technology and innovation that continues developing in the sector finance.

Therefore that, then with This we can conclude that basically national sharia council description can help strengthen the role of DSN and encourage harmonization regulation government and sharia principles for more develop system Indonesian sharia economy. Therefore, that's what we're interested in discuss about "The role and authority of the National Sharia Council in development law Islamic economy in Indonesia".

## RESEARCH METHODS

Study This use approach descriptive qualitative and type research used is library *research* that is nature of data collection library, or has which is implemented For solve a the problem that is basically rely on the pener critical and in-depth to relevant library materials. In carrying out data collection, author classify as well as collection of data taken, namely as following : Literature study, methods This use study as well as data collection through studies used libraries is existing ingredients the relation with title, Where do we get the materials? through journals, books, articles, and basics law from the book of interpretation translation from Sheikh Abdul Halim Hasan. After That done data processing for Then displayed as findings research and interpreted until get conclusion end study

## RESULTS AND DISCUSSION

### Definition and History of the National Sharia Council

DSN was formed by the Indonesian Ulema Council (MUI) and has acknowledged since the existence of the Decree of the Board of Directors of Bank Indonesia Number 32/34/KEP/DIR/1999 concerning Commercial Banks Based on Principle Sharia. National Sharia Council of the Indonesian Ulema Council ( hereinafter referred to as the called DSN-MUI) was formed in frame realize aspiration Muslims about problem economy and encourage implementation Islamic teachings in field economy / finance implemented in accordance with guidance Islamic law. The formation of DSN-MUI is step efficiency and

coordination of the scholars in respond related issues with problem economy or finance. Various the problem that need a fatwa on accommodated and discussed together to obtain similarity view in handling by each Sharia Supervisory Board (DPS) in the institution Islamic finance.

In 1997, MUI held a workshop on Sharia Mutual Funds. One of the recommendations from the workshop was the need to establish a National Sharia Council (DSN). The establishment of the DSN was agreed upon at a meeting on October 14, 1997 and was officially formed in 1998. The presence of the DSN this year coincided with the establishment of the Sharia Development Expert Committee at Bank Indonesia.

The National Sharia Council has functions, among others, to carry out the tasks of the Indonesian Ulema Council in encouraging and advancing the people's economy. In addition, this institution is tasked with exploring, studying, and formulating the values and principles of Islamic law (Sharia) to be used as guidelines in the activities of Islamic financial institutions, as well as supervising their implementation and implementation. So they are given broad power and authority to review every contract, method or activity related to Islamic banking practices.

Legally, the National Sharia Council was initially recognized in the Decree of the Board of Directors of Bank Indonesia Number 32/34/1999 concerning Commercial Banks Based on Sharia Principles, namely as a body that regulates sharia banking products and operations, as well as a supervisor of the Sharia Supervisory Board in various sharia financial institutions. Article 31 of the Decree stipulates that in order to carry out its business activities, Sharia Commercial Banks are required to pay attention to the fatwa of the National Sharia Council. The existence of the DSN is also recognized in various Bank Indonesia Regulations (PBI), including PBI No. 11/15/PBI/2009 concerning Changes in Business Activities of Conventional Banks to Sharia Banks. Article 1 number 7 of the PBI in question states that Sharia Principles are the principles of Islamic law in banking activities based on fatwas issued by the National Sharia Council of the Indonesian Ulema Council.

### **The Role of the National Sharia Council**

In general structural, DSN is A institutions under the MUI. The formation of the DSN is intended For operate MUI's duties and authorities in frame provide related solutions related issues with sharia economy, both related to with system operational Islamic banking and also other things. In directly, MUI can do coordination among the scholars to do business in a way effective and efficient in respond every problem faced people with set a fatwa. In addition that too, DSN in general proactive expected can do supervision, direction and implementation values and principles Islamic teachings for the perpetrator Islamic economics. With Thus, DSN-MUI is authority highest determination a fatwa in set sharia values in Indonesia. DSN-MUI has the following duties:

- a. Establishing fatwas on the systems, activities, products and services of LKS, LBS and other LPS;
- b. Supervise implementation of fatwas through DPS in LKS, LBS, and other LPS ;

- c. Make Guidelines Implementation of Fatwa for more to outline certain fatwas so as not to give rise to multiple interpretations at the time implemented in LKS, LBS, and other LPS ;
- d. Issuing Circular Letters (Ta ' limat) to LKS, LBS, and other LPS;
- e. Providing recommendations for prospective members and/or revoking recommendations for DPS members at LKS, LBS, and other LPS;
- f. Give Recommendation for ASPM Candidates and/ or to pull out ASPM Recommendations ;
- g. Publish Statement Sharia Compliance or Sharia Harmony for products and provisions issued by the Authority related ;
- h. Publish Statement Sharia Compliance of system, activities products and services in LKS, LBS, and other LPS ;
- i. Publish Certificate Sharia compliance for LBS and other LPS that require ;
- j. Organizing Programs Certification Sharia expertise for LKS, LBS, and other LPS ;
- k. Conducting socialization and education in order to increase financial, business and sharia economic literacy; and
- l. Growing develop implementation sharia values in activity economy in general and finance in particular.

One of task The main body of the National Sharia Council (DSN) is issue a fatwa in field sharia economy. The fatwa issued by the DSN becomes guidelines for institutions Islamic finance. The fatwa issued on request or question in a way individual or the institution that wants existence certainty law in a way sharia on the problems it faces. Every fatwa issued by the DSN is based on on the aim is for all operational Islamic finance according to with sharia principles. The fatwa issued the become runway for competent authorities in emit rules / regulations about Islamic banking. In other words, the contribution of the fatwa issued by the DSN is source loaded material in Compilation of Sharia Economic Law (KHES). One of the The purpose of the DSN fatwa is protect operational institution Islamic finance to run in accordance with rules sharia principles. The fatwas issued by the DSN focus on the field of sharia economy. The existence of the DSN fatwa becomes significant in development law Islamic economics in Indonesia, then the Islamic economic fatwas issued by the DSN are actually have relatedness with the material discussed in KHES. Then, the DSN fatwas also describe desire public will runway law and action in do Islamic economics. Therefore That in a number of fields and articles certain. Apart from that, DSN also has the following authorities:

- a. Providing and revoking recommendations for names to sit as members of the Sharia Supervisory Board (DPS) at a sharia financial institution.
- b. Issue a fatwa that binds the DPS in each Islamic financial institution and becomes the basis for legal action by related parties.
- c. Issuing fatwas that serve as the legal basis for provisions issued by authorized agencies, such as Bank Indonesia and the Capital Market Development Agency (BAPEPAM).
- d. Providing a warning to Islamic financial institutions to stop deviating from the fatwa issued by the DSN.

- e. Propose to the authorities to take action if the warning is not heeded. As in QS An-Nisa' {4}: 58:

And Allah is the أَهْلَهَا وَإِذَا حَكَمْتُمْ or تَحْكُمُوا nd give him peace and blessings may Allah bless him a Most Gracious

Meaning: *Indeed Allah commands You convey trust to the owner. If You set law between human beings, should You set in a way fair.* This verse is one of the most important verses in matters of Sharia law, and according to Zahir, the *khatab* verse is addressed to all Muslims, which is related to the mandate. According to what was narrated from Ali, Zaid bin Asham and Syahar bin Hasyab, this verse was addressed to the guardians of Islam. But the first words are clearer.

Even though the reason this verse was sent down is addressed to an event, this does not reduce its general purpose, because what is seen is the general pronouncement, not the specific cause, as is the rule contained in the science of Ushul Fiqh. Wahidi even said, "the commentators have agreed to say that." Among the Companions who held this opinion were, Barra'bin Azib, Ibnu Mas'ud, Ibn Abbas, and Ubaiyy bin Ka'ab, and that was who Muffassirin chose.

What is meant by justice in God's words "*judge fairly*" is, with laws that are based on the Qur'an and Hadith, because laws that are based on mere thought are not valid laws. If it is not found in the Qur'an and Hadith, it is permissible to punish with the *ijtihad* of a judge, who knows the law of Allah and His Messenger well, because Allah SWT says, "*and whoever punishes not according to the law revealed by Allah, then they are disbelievers.*" In other verses it says "*unjust people*" and "*ungodly people*".

People who punish with the Book of Allah are those who understand the meaning of the verses and also understand the *takwil*. As explained by Mu'az bin Jabal when he was sent by the Prophet Muhammad SAW to Yemen, the Prophet asked,

*"With what do you punish?"*

*"With the book of Allah" he answered.*

*"If you don't get it," asked the Prophet too.*

*"By the Sunnah of the Prophet," he also answered.*

*"What if you don't get it?" asked the Prophet next.*

*"I will do ijtihad with my mind"*

#### DSN Supervision Method.

In conducting supervision there are two main methods that are generally carried out by each institution or party authorized to supervise. The two methods are:

- a. Direct Supervision

Direct supervision is a supervision method carried out in the form of a supervisory institution going directly to the field to observe and pay attention to the conditions and situations of the institution that is the object of its supervision. Direct supervision can be in the form of inspections, observations and making reports on the spot based on the conditions that occur at that time.

- b. Indirect Supervision

Indirect supervision is a form of supervision that occurs when the supervisory institution does not go directly to the field to supervise but only assesses the object of supervision based on reports. The reports that can be the basis for supervision can be in the form of oral and written reports.

### **Legal Basis of the National Sharia Council**

When This Islamic Financial Institution, Islamic Business Institution and Islamic Economic Institution in Indonesia is experiencing rapid progress. For support development the required support from the parties related use give possible coaching, supervision and direction development institutions the walk with healthy and sustainable.

One of form support provided The Indonesian Ulema Council is the formation of the National Sharia Council - Indonesian Ulema Council (DSN-MUI) on February 10, 1999. DSN-MUI was formed For carry out MUI's duties in determine fatwa and supervise its implementation use to develop business field finance, business, and sharia economics in Indonesia. The number of DSN-MUI Fatwas until January 2021 was 138 fatwas consisting of from the field of fatwa banking, non-bank financial industry, capital market sector, business and general Fatwa.

In order to To implement the fatwa, DSN-MUI has an organizational organ known as with the Sharia Supervisory Board which has task supervise implementation of fatwas and decisions of the DSN-MUI in institutions finance business, and sharia economics. Legal Basis of DSN-MUI:

- a. Pancasila
- b. 1945 Constitution of the Republic of Indonesia ;
- c. Republic of Indonesia Law Number 13 of 2003 concerning Employment ;
- d. Republic of Indonesia Law Number 40 of 2007 concerning Limited Liability Companies ;
- e. Decree of the Minister of Manpower Number 25 of 2017 concerning the Determination of Indonesian National Work Competency Standards for Sharia Supervisory Job Positions;
- f. Basic Guidelines and Household Guidelines of the Indonesian Ulema Council, notarial deed Number: 034, dated 15 April 2014, and Decree of the Minister of Law and Human Rights Number: AHU-00085.60.10.2014, and amendments based on the results of the 9th MUI National Conference in 2015;
- g. Organizational Regulation of the Indonesian Ulema Council Number: 11/PO-MUI/II/2018 concerning the Articles of Association and Bylaws of the National Sharia Council-Indonesian Ulema Council;
- h. Decree of the Indonesian Ulema Council (MUI) Leadership Council Number: Kep-146/DP-MUI/XII/2020 concerning the Composition and Personnel of the Management of the National Sharia Council-Indonesian Ulema Council for the 2020-2025 Service Period; and Decree of the National Sharia Council- Indonesian Ulema Council No. KEP-26/DSN-MUI/VIII/2017 concerning Certification Competence Sharia Supervisor for the Sharia Supervisory Board.



### The position of DSN-MUI fatwas in Indonesia

Fatwa is A term about opinion or interpretation of something related issues with Islamic law. Fatwa in Arabic means advice, suggestions, answers or opinion. What is meant by is A decision or advice official taken by a institution or recognized individual his authority, conveyed by a mufti or cleric, as response or answer to questions asked by the fatwa requester ( mustaftî ) who is not have attachment. Its use in life religion in Indonesia, a fatwa was issued by the MUI as a decision about problem ijtihâdiyah that occurs in Indonesia in order to made into handle.

The DSN MUI fatwa has play a role in accordance with its status and function, namely as one of the source Islamic law in practice Islamic finance has give direction and certainty law for society and practitioners. Although the fatwa does not own strength law force and not nature force For implemented, but the DSN MUI fatwa has been made into source law formal in the institution Islamic finance, both That institution Islamic banking and institution non- banking Islamic finance. This is happen because the DSN fatwa has regulated in form laws, Bank Indonesia regulations, Bank Indonesia Circulars, Ministerial Regulations, Ministerial Circulars, OJK Regulations, OJK Circulars, and others.

Fatwa has high position in the Islamic religion. The fatwa is looked at as one of the alternatives that can solve freezing in development Islamic law and Islamic economics. Fatwa is one of the alternative For answer current development. Who does not covered with *texts* religious *texts* ( *an- Nushush al- Syar'iyah* ). religious has stop in a way quantity, will but diametrically opposed problems and cases the more develop rapid along with development of the times. In conditions like This is a fatwa that is one of the alternative road go out to unravel problems and events that arise.

Fatwa is one of the institution in Islamic law for give answers and solutions to the problems faced by Muslims. Even Muslims in general make a fatwa as reference in the behave and act practice. Because, the position of the fatwa among public general, implementer argument in among mujtahids (al fatwa fi haqqil ' ami kaladillah fi haqqil mujtahid ). This means that the position of fatwa is for ordinary people to Islamic religious teachings, such as argument for mujtahids. The presence of the fatwas in question, becomes aspect organic from building Islamic economy which is being organized and developed, at the same time is tool measuring for progress Islamic economics in Indonesia. The Islamic economic fatwa that has been present That in a way technical presenting a development model even update jurisprudence transactions maliah and\ or jurisprudence economy. In terms of functional fatwa has task tabihin and tawujih. Tabiin means explain the law which is regulation practical for financial institutions, especially those requested by practitioners sharia economy to the national sharia council (DSN). Taujih, namely DSN provides guidance and enlightenment to the wider community about legal norms Islamic economics.

Of course in study principle fiqh, the position of fatwa is only brushing for those who ask for fatwas and those who give fatwas. However in context this, theory That No fully No Can accepted, because context, nature and character of the current fatwa This has evolving and different with the classical fatwa. The old theory about fatwa must be reformed and renewed in accordance with development and the process of fatwa formation. So the fatwa

theory is only abbreviate mustafti (person who asks for fatwa) no relevant for the DSN fatwa. DSN's current sharia economic fatwa This No only tie become practitioners of Islamic economic institutions, but for the Indonesian Islamic Community, especially the fatwas now has positivized through Bank Indonesia Regulation (PBI). Even the DPR recently This has amended Law No. 07\ 1989 concerning religious courts in general firm enter problem Islamic economics as authority religious courts.

Current Islamic economic fatwa This is issued by the National Sharia Council or DSN does not only tie for practitioners of Islamic economic institutions, but also for the Islamic community, especially the fatwas in question, have made into law positive through Indonesian Bank Regulation (PBI). Even the DPR-RI changed and/ or amending Law No. 07 1989 concerning religious courts became Law No. 03 2006 in firm enter problem Islamic economics as authority religious courts.

The National Sharia Council is not a state institution, but its fatwas and recommendations are absorbed by regulators in making regulations and permits. Namely Bank Indonesia or BI when regulating Islamic banking, the Capital Market and Financial Institution Supervisory Agency (Bapepam-LK) when regulating capital markets and insurance, and the department to regulate Islamic-based financing institutions. Law No. 40\2007 concerning limited liability companies, which was passed on August 16, strengthens the position of the DSN. Because every PT that carries out Islamic business is required to have a Sharia Supervisory Board or DPS recommended by the DSN. In fact, all fatwas issued by the DSN should also be directly positivized by the central bank as in Sudan. In Sudan and Malaysia, the position of the DSN is included in the organizational structure of the central bank. However, its position is not at the governor's level, but under the Islamic Banking and Takaful Department.

### **The position of DSN-MUI fatwas in the regulatory system in Indonesia**

In order to respond issues Islamic law is currently developing and actual that appears in the midst society, then MUI has Lots issued a fatwa. In some time Lastly, politics law colored with discussion question the existence of the fatwa in framework of the Unitary State of the Republic of Indonesia. While that is the MUI fatwa decision or opinion given by MUI regarding a problems the law that emerged in life Muslims.

Even though the MUI fatwa is not enter in category law positive, and not have strength law force, enforcement No may use state apparatus such as institution police and prosecutors, as well as No allowed with coercive methods will, except if MUI fatwa material if has adopted to in form Regulation in the form of Constitution or Regional Regulations. Basically the content and material of the MUI fatwa only limited to or is opinion solely, which is not There is characteristic tie in a way law even not tie for the Muslims alone, and not can applied in a way force, moreover become the only one base For to drop sanctions in act criminal.

In the system law constitutional state in Indonesia, position or the position of the MUI fatwa is only is as law aspirational which has strength constructive morally for community that has aspiration For practice it, but the fatwa No can made into tool force for another different group opinion with the MUI fatwa, because No including in law positive. With another expression of location the position of the MUI fatwa is only can equalized with with



position opinion expert law, language, and religion. Because, to evaluate the material and content of the fatwa, the thighs of the scholars, zu'ama and intellectuals Muslim have more competence and knowledge For issue a fatwa. So that the position of fatwa in life Muslims, no tie in a way law, will but nature tie purely religiously, with thus No There is opportunity for a Muslim For against it if the fatwa is based on to argument or valid and sharia-compliant texts. While law positive is the current law This applicable which includes rule applicable laws and regulations general ( regulating ), or decisions in force special ( beschikking ), the implementation of which monitored by state apparatus and systems justice.

According to Mahfud MD, the MUI fatwa is opinion religious, not law positive that may followed and allowed No followed so that those who violate the MUI fatwa do not may given sanctions or punishment. The fatwa bind to oneself alone and not set up in the Act. The status of a fatwa is a legal opinion in the sense that it is not own consequence law whatever. Even though Thus, there are factor external that can strengthen fatwa position. According to analysis Syifa Amin, two MUI fatwas regarding Ahmadiyah and understanding secularism, pluralism, and liberalism, enough get response from public broad and impactful to the community certain.

## CONCLUSION

The National Sharia Council (DSN) is an institution established by the Indonesian Ulema Council (MUI) to give a fatwa or opinion law related problem appropriate economic and financial with principles of Islamic sharia. DSN has role important in supervision and coaching activity economy, banking, and institutions operating finance based on sharia principles.

Task The main functions of the National Sharia Council are :

1. Issuing Sharia Fatwa: DSN issues a fatwa on various products and services related finances with sharia, such as Islamic banking, Islamic insurance, Islamic capital markets, and product finance others. This fatwa aiming For ensure that practice finance the in accordance with Islamic law.
2. Supervision : The National Sharia Council supervises institution Islamic finance for ensure that operation they still comply the correct principles of sharia, so that No There is element usury, gharar ( obscurity ), or maysir ( gambling ) in transactions made.
3. Education and Socialization: DSN also plays a role in increasing the understanding of the community and industry players regarding Islamic economics and finance.

The National Sharia Council was formed based on the MUI decision and in collaboration with Bank Indonesia, the Financial Services Authority (OJK), and other related institutions related to the financial sector.

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