

## DSN-MUI Fatwa as a Source of Law in the National Sharia Economic Legal System

Mualim<sup>1\*</sup>, Oyo Sunaryo Mukhlas<sup>1</sup>, Atang Abd. Hakim<sup>1</sup>

<sup>1\*</sup> Universitas Islam Negeri Sunan Gunung Djati Bandung, Indonesia

Corresponding Author: [alimjava@gmail.com](mailto:alimjava@gmail.com)<sup>1\*)</sup>

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**Keywords :** DSN-MUI fatwa, Sharia Economic Law, Sources of Islamic Law, National Regulations, Normative Juridical.

**Abstract:** The development of Islamic economic law in Indonesia is inseparable from the contribution of the National Sharia Council of the Indonesian Ulema Council (DSN-MUI), as a religious authority that issues fatwas on contemporary muamalah practices. DSN-MUI fatwas not only serve as normative guidelines for the operations of Islamic financial institutions but also serve as substantive references in the formation of national Islamic economic regulations. This article aims to examine the position and legal force of DSN-MUI fatwas in the Indonesian legal system, while also analyzing the mechanisms for transforming religious norms into positive law. This research uses a normative juridical approach with a qualitative-descriptive analysis method of laws and regulations, DSN-MUI fatwas, and court decisions related to Islamic economic disputes. The results show that DSN-MUI fatwas occupy a strategic position as a source of material law that provides a normative basis for the birth of regulations, such as Law Number 21 of 2008 concerning Islamic Banking and various Financial Services Authority Regulations. However, formally, fatwas do not have direct binding force before being adopted into laws and regulations. Therefore, strengthening the synergy between religious authorities and state institutions is an important prerequisite for realizing a national Islamic economic legal system that is integrated, responsive, and equitable.

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## Introduction

The Islamic finance industry in Indonesia has shown significant growth over the past two decades. This growth is driven not only by increasing public awareness of Islamic economic principles but also by an increasingly systematic and comprehensive regulatory framework. In this context, the National Sharia Council of the Indonesian Ulema Council (DSN-MUI) plays a central role as an institution authorized to issue fatwas in the field of Islamic economics and finance (Pramudita et al., 2025).

Fatwas issued by the DSN-MUI serve as normative references for Islamic financial institutions (LKS) in ensuring compliance with sharia principles. Furthermore, these fatwas also serve as a reference for state regulators, such as Bank Indonesia and the Financial Services Authority (OJK), in formulating technical policies and regulations (Imaniyati & Adam, 2017). This strategic position raises fundamental questions regarding the legal status of DSN-MUI fatwas within the national legal system, particularly in the context of Islamic economic law.

This question is relevant given that the Indonesian legal system adheres to a civil law tradition that places statutory regulations as the primary source of law. Meanwhile, fatwas are not the product of the state's legislative or executive bodies (Alamudi & Hasan, 2023). Therefore, an in-depth study is needed to clarify the extent to which DSN-MUI fatwas can be positioned as a source of law and their binding force in legal and judicial practice.

This article seeks to comprehensively examine the position of DSN-MUI fatwas through theoretical, regulatory, and judicial practice analyses, thereby providing a conceptual contribution to the development of national Islamic economic law.

## Research Method

This research uses a normative juridical approach, positioning law as norms and rules contained in various official documents. The research data sources include: laws and regulations related to Islamic economics, such as the Islamic Banking Law, the Financial Services Authority (OJK) Law, Bank Indonesia regulations, and OJK regulations; fatwas from the National Sharia Council (DSN) and the Indonesian Ulema Council (MUI) governing muamalah contracts and products; and court decisions, particularly those of the Religious Courts in Islamic economic disputes.

Data analysis was conducted qualitatively and descriptively using normative interpretation techniques to assess the position and function of fatwas within the national legal system.

## Result and Discussion

### *1. The Concept of Fatwa in Islamic Legal Tradition*

#### *a. Definition of Fatwa*

Etymologically, the term fatwa comes from the word "al-fatwa," which, according to Ibn Mandzur, is a compound form of fata-yaftu-fatwan, meaning explanation, enlightenment, and novelty (Ibn Mandzur, 1990: 145). Al-Fayumi linked the term to "al-fata," meaning a strong youth, thus understanding the mufti as a figure possessing the intellectual and moral capacity to provide legal explanations (Ma'ruf Amin, 2008: 19).

Terminologically, Zamakhsyari defines fatwa as an explanation of sharia law on issues raised by individuals or groups. Ash-Syatibi views fatwa as a non-binding part of the practice of al-ifta', while Yusuf al-Qaradawi emphasizes fatwa as a religious response to legal questions

raised by mustafti. Abu Zahrah described fatwas as a form of *tabyin al-hukm asy-syar'iy* for those who need them (Ilma et al., 2025).

Based on this view, fatwas can be understood as responsive and contextual explanations of sharia law, not legally binding, but possessing scientific and moral authority in the lives of Muslims.

#### *b. Legal Basis for Fatwas*

The legitimacy of fatwas in Islam is derived from the Qur'an, Sunnah, *ijma'*, and the principles of *ushul fiqh* (Islamic jurisprudence) (Muhammad, 2025). The Qur'an commands Muslims to consult scholars when facing legal issues (Qur'an, 16:43) and emphasizes the obligation of *tabyin*, or legal explanations (Qur'an, 16:44). In the Sunnah, the hadith of Mu'adh ibn Jabal serves as the basis for the permissibility of *ijtihad* and fatwas when no explicit text is available.

Furthermore, scholars agree that fatwas are an integral part of the Islamic legal system. Imam Nawawi emphasized the obligation of scholars with the ability to issue fatwas when requested. Rationally, fatwas are necessary to maintain the actualization of sharia law and keep it relevant to the dynamics of the times and the needs of society (Ilma et al., 2025).

#### *c. Significance and Position of Fatwas*

In Islamic legal literature, fatwas are understood as a form of legal explanation that is not legally binding but possesses strong moral and epistemic authority. Fatwas emerge within a specific social context, are adaptive to change, and exhibit high flexibility in responding to contemporary issues. These characteristics make fatwas a crucial instrument in maintaining the continuity and relevance of sharia teachings amidst societal dynamics (Muhammadong, 2025).

During the time of the Prophet Muhammad (peace be upon him), fatwas in the technical sense, as recognized in the Islamic jurisprudence tradition, had not yet developed, given that Muslims could directly refer to him as the primary source of law. Nevertheless, the practice of requesting legal clarification (*istifta'*) was widespread. The Companions frequently asked questions regarding various legal issues, the answers to which were partly enshrined in the Qur'an and others explained through the Prophet's Sunnah (Ma'ruf Amin, 2008: 19).

The Qur'an explicitly records this practice through the use of the term *yastaftūnaka*, as found in Surah an-Nisa', verses 127 and 176. These verses are direct answers to questions from the Companions regarding the issues of orphans, vulnerable groups, and the legal provisions regarding inheritance. Furthermore, several hadith also reflect the practice of requesting fatwas, such as Sa'd ibn 'Ubadah's question regarding his mother's vow (Narrated by Malik) and Umar ibn al-Khattab's question regarding the law of sleeping while in a state of *janub* (Narrated by Muslim) (Taufika & Lukito, 2024).

As the complexity of social life increases, new issues arise that are not explicitly found in the Qur'an or Sunnah. In this context, fatwas produced through the process of *ijtihad* by scholars play a strategic role. Fatwas serve as a means of maintaining the actualization of Islamic teachings, which are universal and transcendental (*ṣāliḥ li kulli zamān wa makān*) in responding to the needs of contemporary society. Conceptually, a fatwa is a legal explanation issued by a mufti in response to a legal request (*istifta'*) regarding a specific issue (Ilma et al., 2025).

In classical Islamic legal literature, such as al-Ghazali's *al-Mustashfā* and al-Syatibi's *al-Muwāfaqāt*, fatwas are classified as legal explanations that lack legal binding force (Kermeli

et al., 2000). Nevertheless, fatwas retain significant moral legitimacy and epistemological power in the lives of Muslims. The main characteristics of fatwas in Islamic law include: first, they are not legally binding unless they are institutionalized by state authorities; Second, it is contextual and dynamic in following social changes (*taghayyur al-fatwa bi taghayyur al-zamān*); and third, it has the flexibility to accommodate contemporary developments and issues (Wiwin, 2025).

## 2. *Fatwas as a Source of Law in the National Legal System*

In the Indonesian legal system, fatwas are not included in the hierarchy of statutory regulations as stipulated in Law Number 12 of 2011 (Aswan & Ashufah, 2023). However, fatwas can be positioned as a material source of law, namely norms that provide substance and basic values in the formation of positive legal regulations, particularly in the field of Islamic economics.

## 3. *DSN-MUI and the Islamic Economic Fatwa Authority*

The strict requirements for *ijtihad* mean that not every individual has the capacity to issue a fatwa. In the contemporary context, the practice of individual fatwas is increasingly rare given the significant scientific and social responsibilities inherent in a mufti. Consequently, the collective fatwa model issued by an institution comprised of scholars from various disciplines has become a more dominant approach (Pauzi M & Hipni, 2023). This model has long been applied by various international fatwa institutions, such as the *Majma' al-Buḥūts al-Islāmiyyah*, *Majma' al-Fiqh al-Islāmī*, and *Rabithah al-Ālam al-Islāmī*.

In Indonesia, there are a number of Islamic organizations and institutions that oversee scholars with the competence to issue fatwas. However, differences in the *istinbāḥ al-ḥukm* methodologies used by each organization have the potential to give rise to differing legal views on the same issue. In practice, this situation often leads to inconsistencies in fatwas between organizations, even leading to the rejection of fatwas issued by other institutions (Sadiq et al., 2024).

This situation has implications for the emergence of legal uncertainty, particularly in the field of Islamic economics and finance, as it can create confusion in the application of the law to similar issues. Therefore, a representative and inclusive fatwa institution is needed, capable of bringing together scholars from various organizational and scholarly backgrounds. This will ensure stronger legitimacy and broad acceptance of fatwas, while minimizing the potential for differences in fatwas on the same case.

In the Indonesian context, the Indonesian Ulema Council (MUI) serves as an umbrella body representing various Islamic community organizations and has national authority in issuing fatwas. Therefore, delegating the authority to issue fatwas in the field of Islamic economics to the MUI is a rational and strategic step. To optimize the implementation of this function, the MUI subsequently established the National Sharia Council of the Indonesian Ulema Council (DSN-MUI), which is specifically mandated to handle Islamic economic and financial issues (Ma'ruf Amin, 2008: 19).

Through the DSN-MUI, various fatwas on Islamic economics are issued and subsequently used as references by state regulators for adoption into binding legislation for Islamic financial and business institutions (LKS and LBS) in Indonesia. The Indonesian Ulema Council (DSN-MUI) itself was established on February 10, 1999, based on MUI Decree No. Kep-754/MUI/II/1999, in response to the need for sharia regulations governing national sharia economic and financial practices (Imaniyati & Adam, 2019).

Institutionally, the DSN-MUI plays a strategic role in ensuring that all sharia economic activities are conducted in accordance with Islamic sharia principles. The DSN-MUI's functions include: (1) issuing fatwas as national sharia guidelines; (2) serving as the primary reference for interpreting sharia principles; (3) fostering and supervising the performance of the Sharia Supervisory Board (DPS); (4) conducting studies and research in the field of sharia economic law; (5) mediating the issuance of fatwas on new products and services; and (6) establishing collaboration with regulators and financial institutions (Widayanti & Sari, 2023).

The fatwas issued by the DSN-MUI cover various aspects of the sharia economy, including products, contracts, and services provided by Islamic financial institutions (LKS) and Islamic financial institutions (LBS). The issuance of these fatwas is driven by several factors, including: a response to initiatives by regulators, such as Bank Indonesia, the Ministry of Finance, and the Financial Services Authority (OJK), aimed at maintaining industry stability and prudence; a response to the needs of business actors to meet market demand; a response to the Sharia Supervisory Board's proposals for implementing existing fatwas; and an internal DSN-MUI initiative that refers to the opinions of scholars in authoritative classical Islamic jurisprudence (*al-kutub al-mu'tabarah*) (Nafilah & Nufus, 2025).

Thus, it can be emphasized that the DSN-MUI plays a fundamental role in ensuring the consistent application of sharia principles in sharia economic practices in Indonesia. Through its normative and coordinating functions, the DSN-MUI serves as a key pillar in the development and supervision of the national sharia economic system, providing legal certainty for business actors and the public.

#### *4. The Position of the National Sharia Council (DSN-MUI) in the National Legal System*

Institutionally, the National Sharia Council of the Indonesian Ulema Council (DSN-MUI) is not a state institution. However, its existence and role are recognized through various regulatory instruments, including Law Number 21 of 2008 concerning Sharia Banking and several Financial Services Authority Regulations (Jaafar et al., 2024). In this context, DSN-MUI fatwas serve as a material source of law, providing a normative basis for the formation of sharia economic regulations. The binding power of these fatwas is realized through their adoption into legislation, internal compliance mechanisms of sharia financial institutions, and their use as a reference by judges in resolving sharia economic disputes (Suhendar, et al., 2023).

##### *a. Normative Authority of DSN-MUI*

Although not classified as a state institution, DSN-MUI possesses normative authority that is functionally recognized by the state. This recognition is reflected, among other things, in Article 26 of Law Number 21 of 2008, which requires every Islamic financial institution to have a Sharia Supervisory Board that is guided by the fatwas of the DSN-MUI. Furthermore, various OJK regulations explicitly require Islamic financial institutions to comply with fatwas issued by the DSN-MUI. Thus, despite being outside the state institutional structure, the DSN-MUI carries out a normative function recognized in the national legal system (Suhendar et al., 2023).

##### *b. DSN-MUI Fatwas as a Source of Material Law*

DSN-MUI fatwas serve as the normative basis for the formation of various Islamic economic regulations. This is evident, among other things, in the regulation of Islamic contracts in the Islamic Banking Law, such as *mudharabah*, *musyarakah*, *murabahah*, and

ijarah, as well as in OJK regulations governing Islamic financial products and services (Yulianti et al., 2025). Furthermore, the DSN-MUI fatwas also serve as a reference in the development of operational standards for Islamic banks and other Islamic financing institutions. In this capacity, fatwas serve as material substance that fills legal gaps and guides the process of formulating positive law.

#### *c. Binding Power of DSN-MUI Fatwas*

Formally, DSN-MUI fatwas do not have direct binding force on all citizens. However, the binding power of these fatwas arises through several mechanisms. First, when a fatwa is adopted into legislation, it acquires legally binding force. Second, there is an internal compliance obligation for Islamic financial institutions through the role of the Sharia Supervisory Board. Third, the use of fatwas as a reference by judges in resolving Islamic economic disputes, as stipulated in the Religious Courts Law following the amendment to Law Number 3 of 2006 (Wiwin, 2025).

#### *d. DSN-MUI Fatwas in Court Decisions*

Several Religious Court decisions demonstrate that judges consistently refer to DSN-MUI fatwas in deciding Sharia economic cases, particularly those related to financing contract disputes, murabahah defaults, the implementation of musyarakah contracts, and the determination of margins and fines based on Sharia principles. This practice confirms the persuasive and authoritative power of DSN-MUI fatwas in judicial practice (Yuniardi et al., 2024).

Nevertheless, DSN-MUI still faces several legal challenges, including the lack of explicit recognition of fatwas within the hierarchy of laws and regulations, the potential for disharmony between fatwas and state regulations, limited legislative mechanisms to accelerate the adoption of fatwas into formal regulations, and the need for standardization of fatwa interpretation among judges and the Sharia Supervisory Board (Lawang et al., 2025). Therefore, the transformation of DSN-MUI fatwas into positive law is urgently needed, either through legislation, technical regulations such as POJK (OJK Regulation) and PBI (Bank Indonesia Regulation), or through internal operational guidelines for Islamic financial institutions. This transformation process demonstrates the gradual integration of sharia norms and positive law within the national legal system.

### **Conclusion**

The DSN-MUI fatwas play a strategic role in the development of Islamic economic law in Indonesia. Materially, they provide the normative basis for the creation of various national regulations. However, formally, fatwas only become binding after they are adopted into legislation. Therefore, strengthening synergy between the DSN-MUI, regulators, and lawmakers is necessary to ensure the effective and sustainable transformation of fatwas into positive law, thus creating a national Islamic economic legal system that is fair, certain, and responsive to the dynamics of the times.

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