

ANALYSIS OF FATWA CHARACTERISTICS OF SHARIA ECONOMIC LAW

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Abstract

Sharia economic law fatwas are legal guidelines issued by scholars and fatwa bodies in the context of Islamic economics and business. This fatwa covers aspects of law, ethics, and economic principles that are Islamic principles. Analysis of the characteristics of Sharia economic law fatwa is important to understand the application of Islamic law in the economic and business context. In this analysis, we will look at the understanding and implementation of the characteristics of fatwas in business practice, the role and significance of fatwas in the Islamic economy, the influence of fatwas on investment decision-making, as well as the dynamics and evolution of fatwas in sharia economic law. The research method used is text analysis to understand the various opinions of experts regarding the meaning and role of the fatwa. Fatwas are considered important in Islam because they can solve problems that are not explicitly regulated in the Al-Quran and hadith. Fatwas have also developed since the time of the Prophet Muhammad until the modern era, involving companions, tabi'in, mujtahid imams, and contemporary scholars. This study aims to provide an understanding of the fatwa of Sharia economic law and its importance in Islamic economics. Through an analysis of the characteristics of fatwas and the research methods used, it is expected to provide a better understanding of the influence and implementation of fatwas in the context of sharia economics and business.

Keywords: *Characteristics, Fatwa, Sharia Economic Law*

1. INTRODUCTION

Sharia economic law fatwas are one of the important instruments in the Islamic financial system that provide legal guidance in economic and business contexts. These fatwas are issued by clerics and fatwa bodies that have authority within the Muslim community (A-Qaradawi, 2000, p. 78). The characteristics of fatwas of sharia economic law include aspects of law, ethics, and economic principles that are in accordance with Islamic principles. Analysis of the characteristics of Islamic economic law fatwas is important to understand how Islamic law is applied in economic and business contexts. (Muhammad, 2017, p. 177)

In this analysis, various aspects will be seen which include understanding and implementing the characteristics of sharia economic law fatwas in business practices, the role and significance of sharia economic law fatwas in the Islamic economy, the influence of sharia economic law fatwas on investment decision making, and the dynamics and evolution of sharia economic law fatwas.

2. IMPLEMENTATION METHOD

There are two words that we can see from research methods, namely the first method and the second word is research. The method is taken in a language derived from Greece, namely *methodos* which is a way or way. Method is a neat way to get or want something that you want or want. In relation to scientific knowledge, the method concerns how to work to understand the object that is the target of the science concerned, therefore the method can be interpreted as a way of approaching, observing, explaining a phenomenon using theoretical foundations. The word Research as an effort to find, develop, test the truth of a knowledge that is done using scientific methods.

3. RESULT AND DISCUSSION

3.1 Understanding

There are several understandings expressed by experts including, as follows:

1. According to Prof. Dr. Hj. Nasaruddin Umar:

A fatwa is an opinion or decision issued by a cleric or fatwa institution that has authority in Islam. This fatwa contains guidelines or explanations of Islamic law in answering certain problems or problems (Omar., p. 13).

2. According to Prof. Dr. Hj. Quraish Shihab:

Fatwa is an opinion given by a competent person in the field of Islamic religious science (ulama) related to the application of Islamic law in everyday life. Fatwas aim to provide guidance and solutions for Muslims in dealing with problems or events that are not explicitly regulated in the Quran and hadith (Quraish, 2007, p. 156).

3. According to Prof. Dr. Hj. Azyumardi Azra:

A fatwa is a view or judgment given by a scholar based on the interpretation and application of Islamic law to a specific situation or event. This fatwa aims to provide direction and guidance for Muslims in dealing with religious and social problems (Azra, 2017., p. 34).

4. According to Prof. Dr. Mohd. Asri Zainul Abidin:

A fatwa is an explanation or decision given by a scholar based on a study and understanding of the sources of Islamic law. This fatwa is a response to the actual problems faced by Muslims in everyday life (Abidin, 2011, p. 22).

5. According to Dr. Hj. Syafii Antonio:

A fatwa is an explanation or decision given by a scholar or fatwa institution authorized in interpreting and applying Islamic law. This fatwa aims to provide guidance and solutions to the problems faced by Muslims in various aspects of life, including in the economic, social, and political context (Antonio, 2019, p. 13).

6. According to Dr. H. M. Cholil Nafis, MA:

A fatwa is an answer or decision given by a scholar based on the understanding and application of Islamic law to a particular issue. This fatwa plays an important role in providing orientation and guidance for Muslims in facing the times and challenges that arise in various areas of life (Nafis C, 2018, p. 41).

From the opinions expressed above, we can conclude that Fatwa is a decision or answer to a problem that exists in everyday life issued by scholars or institutions authorized to solve problems in religion in the daily life of the community either muamalah, worship etc.

Fatwas have an important position in the religion of Islam. Fatwas or decrees of scholars are seen as one alternative that can break the ice in the development of Islamic law. Islamic law in its establishment cannot be separated from religious propositions (*Al-Nuṣuṣ al-Shari'iyah*) facing serious problems when dealing with growing problems that are not covered in the *naṣ-naṣ* religious. *Naṣ-naṣ* Religion has ceased in quantity, but diametrically the problems and cases are growing rapidly with the times. In these conditions, fatwas become one alternative way out to unravel the problems and events that arise (Riadi, 2013).

The appearance of fatwas is actually closely related to the periodization of tasyri" Islamic law itself. Historically, the person who first fatwa in Islam was the Prophet Muhammad (peace be upon him), himself, who in another sense the fatwa was a revelation of Allah Almighty, and was something that was believed to be true, stating that the institution *fatwa* was introduced by the Prophet himself since Islam began to expand to other areas. He was willing to answer the questions posed to him and make legal decisions against him, the answer to the fatwa was based on the book of Allah, or sometimes based on the Prophet's own *ijtihad* according to the guidance and guidance of Allah, this second form was later referred to as *hadith*. After the death of the Prophet Muhammad, peace be upon him, the duties of fatwa were continued by his companions, the fatwa became known as *Fatwa ṣahaby*". At this time the fatwa material is divided into 2 (two) forms, namely: (Wahyudi & Fajar, 2018)

1. Fatwa whose material is a repetition of explanations from the Qur'an and Sunnah.
2. Fatwas whose material is the result of the *ijtihad* of the Companions. This form came to be referred to as "*fatwa ṣahaby*".

After the period of companions ended, fatwa activities were continued by *tabi'in*, this generation were those who had studied with scientific figures from the generation of friends. The process of scientific transformation that takes place between friends and *tabi'in* is intertwined based on the method of narration (*nuqil*), both directly and indirectly. It directly means that *tabi'in* hears or learns directly to a friend about legal decisions and fatwas issued by friends indirectly.

The *tabi'in* era referred to in this paper is the period of transition of government power to the hand of Banu Ummayah led by Mu'awiyah ibn Abi directly means *Tabi'in* Memorize and master all the legal provisions of a friend even though he has never heard it himself from the friend.

At this time two different legal ideas were born, first the school *ahl-Madīnah* or *ahl-Hadith* centered in Ḥijāz while the second is *ahl al-Kūfah* or *ahl al-Ra'y* centered in Kūfah. Since the time of companions *Madīnah* and *Kūfah* is a center of scientific activity. *Mādinah* as the city that became the first place of legal proclamation, accumulated the hasanah of the legal treasury inherited by the Prophet S.a.w. In *Mādinah* this is also the cradle of the Companions who were given the title *Fuqahā'* *Al-Sab'ah* (the title was given because they were all in *Mādiah* both spreading knowledge and fatwa at the same time), among the companions who received the title were Sa'id ibn Musayyab, 'Abd al-Rahmān Ibn Ḥarith Ibn Hisham, and others.⁴⁵ Kufāh was the center of most of the companions such as 'Abdullah Ibn Mas'ūd, Abū Mūsā al-Ash'arī, Sa'd Ibn Abī Waqqās, Anas Ibn

Mālik and others (Rahman, 2002).

The Ahl-Madīnah, which was pioneered among the Companions and was widespread during the *tabi'in* period, was a school of thought that tended to rely on traditional sources (the Qur'an and Sunnah) to establish legal conclusions and fatwas. According to them it is more appropriate to refer to *al-sunnah* (after referring to the Qur'an) and then *athar al-ṣaḥabah* to resolve legal issues as they occur. This attitude is basically motivated by the situation that Medina is the center of the descent of wahu and the earliest center of Islamic scholarly studies because there are many references to the hadith of the Prophet (peace be upon him), which have been memorized by the companions and always inherited by *tabi'in*. Thus it is not difficult for them to get references from hadith in making legal conclusions.

Meanwhile, *the Ahl al-Ra'y* who inherited the attitude of their teachers from among the Companions were more inclined to make legal conclusions based on scientific analysis or reasoning after no references were found from *the naṣ al-Qur'an* and *hadith*. *Ahl al-Ra'y* tends to see a legal provision by examining the wisdom and secrets behind it to be applied in cases that have the same legal cause, it is the attitude of those who prefer to use the analogy that causes them to use more reason to establish a law. Unlike the *Madīnah*, the *Kufāh*, whose hadith treasury was not as large as in *Madīnah*, urged them to use *Ra'y*. In addition, with the expansion of Islamic conquered lands at this time also arose the practice of falsifying hadith. This movement is carried out by groups who do not have the ability to narrate hadith or by groups who deliberately lie to the Prophet (saw), and some make hadith with the aim of defending their opinions or groups. This then makes *Ahl-Ra'y* more careful in accepting hadith, so they prefer to use *Ra'y*.

After the period *Tabi'in*, fatwas developed through mujtahid imams and their followers. At this time the problems of fiqh began to be booked. The problems recorded are formulations of the problems that have been determined in *Qur'an* and *hadith*, fatwas of companions and fatwas *mujtahidīn* as a result *ijtihad* them at that time. Problems *fiqh* At that time it was well systematic, making it easier for readers to find the desired problem (Ali, 2016).

The subsequent development of fatwas in the modern era was marked by the emergence of contemporary scholars such as Yusuf al-Qarḍawi and Wahbah Zuhaili. Qarḍawi, for example, in issuing fatwas rests on the following; a) not be fanatical or *Taqlid*, nevertheless he remained respectful to the priests *mazhab* By using their methods and perspectives, not expressing pend apat sign a strong proposition, able to men-*Tarjih* the most powerful, b). make it easier not to complicate, c) speak in language that is easy to understand, d) turn away from something that is not useful, e) be intermediate not to loosen and tighten, f) give rights *fatwa* which is in the form of information and explanation. Then Wahbah Zuhaili, in *fatwa*-its has the following characteristics; a) first conduct a study of *Naṣ*, b) If he does not find the hadith of the problem he is dealing with, he uses the hadith '*Amaliyah* or *Taqririyah* as a postulate, c) if neither source is found, Wahbah Zuhaili takes into account the opinions of the scholars by taking into account the validity of the hadith postulated by the scholars, d) does *tarjih* to opinions that refer to the backrest that *ṣaḥīḥ* (Mulkan, 2012).

3.2 Fatwa Requirements and Fatwa Forms

In principle, the conditions for fatwa are divided into 3 (three) forms; First, *syarṭ taklīf* (general condition). Second, the *syarṭ al-asāsiyah* (basic condition) and the third condition of consummation. Regarding the requirements of a muftī, Ibn l-Samāni in *Irṣād al-Fuhūl* mentions three conditions, namely being able to *ijtihād* and avoiding the impression of loosening and simplifying the law. Imam Nawāwi mentioned that a muftī should be a *wara'*, *thiqāh*, spared from *fāsiq*, sharp in thought, spiritually and physically healthy (Yahya, 2018).

Basically the position of *fatwā* is the same as *ijtihād*. The Rifyal Ka'bah also asserts that *iftā'* (the work of giving fatwas) is a synonym of *ijtihād*. The difference is that fatwas are more specific than *ijtihād*. *Ijtiḥād* is the *istinbāṭ* (formulation) of general legal provisions, whether the case law already exists or does not yet exist. *Iftā'* (fatwa) concerns an existing case in which the mufti decides his legal provisions based on his legal knowledge (Azharrudin, 2016).

The National Sharia Council was established by the Indonesian Ulema Council, as stated in the National Sharia Council Decree No: 01 of 2000 concerning the Basic Guidelines of the Indonesian Ulema Council Council (PD DSN-MUI) on the basic guidelines and household guidelines of the Indonesian Ulema Council for the period 1995-2000, and the Decree of the Leadership Council of the Indonesian Ulema Council No: Kep-754 / MUI / II / 99 concerning the establishment of the National Sharia Council, So the National Sharia Council was formed, with the following rationale: (*DSN-MUI – National Sharia Council – Indonesian Ulema Council*, n.d.).

- a. With the development of Islamic financial institutions in the country recently, and the existence of a Sharia Supervisory Board in each financial institution, it is considered necessary to establish a National Sharia Board that will accommodate various issues / cases that require fatwas in order to obtain equality in handling from each Sharia Supervisory Board in each Islamic financial institution.
- b. The establishment of the National Sharia Council is a measure of efficiency and coordination of scholars in dealing with issues related to economic/financial issues. The National Sharia Council is expected to function to encourage the application of Islamic teachings in economic life.
- c. The National Sharia Council plays a pro-active role in responding to the dynamic development of Indonesian society in the economic and financial fields.
- d. The National Sharia Council plays a pro-active role in responding to the dynamic development of Indonesian society in the economic and financial fields.

3.3 Fatwa Determination Procedure

The procedure for determining DSN fatwas is carried out in plenary deliberations attended by all DSN members accompanied by Bank Indonesia or other financial institutions, as well as financial industry parties, including banking, insurance, capital markets, and institutions related to the Islamic economy and finance. Before the fatwa is discussed in the plenary deliberations, the draft fatwa has been discussed by the Daily Implementing Board, so that when the plenary deliberations discuss the draft fatwa is already in the final settlement stage. The draft fatwa may be amended in its entirety or may be rejected, but in general drafts prepared by the daily Executive Board are accepted, although of course there are critical notes from the members of the plenary

deliberations. Usually, after the completion of the plenary deliberations, a drafting team will be formed in charge of formulating fatwas in accordance with the views or proposals of the participants of the DSN plenary deliberations.

In detail the *iftā'* procedure established by DSN-MUI is as follows: (DSN-MUI – National Sharia Council – Indonesian Ulema Council, n.d.).

- a. In the first stage, the applicant submits the problem requested by the fatwa to the DSN working group (Pokja). The Working Group then formulates a draft of the problem and reconfirms it to the applicant. Confirmation is done through a case hearing. If the draft is in accordance with what the applicant wants, the Working Group takes it to the next stage.
- b. The second stage is the discussion of draft problems at the Daily Implementing Agency (BPH) level. By BPH, draft problems are discussed and legal answers are sought through linguistic analysis (*'adillah*) and consider the opinions of scholars contained in fiqh books or other sources (*aqwal*). After conducting the analysis, BPH consults the regulator for the purpose of aligning the fatwa with other regulations related to the issue to be issued

3.4 Characteristics of Sharia Economic Fatwa DSN-MUI

Furthermore, to find out the characteristics of Islamic economic fatwas issued by DSN-MUI, at least it can be known based on several indicators that are elements of the fatwa, including: fatwa applicants (*as-sā'il*), fatwa givers (*mufti*), events (*'amr nāzil*), *syar'i* propositions, and Allah's law. Another element that is also an important benchmark in knowing the character of fatwas is the format of the fatwa (*ruq'ah al-fatwa*) itself (Matta, 2017).

1. Fatwa Applicant (*mustafti*)

To find out the characteristics of the DSN-MUI fatwa, the first element is the fatwa applicant. Basically, those who have the right to be applicants for DSN-MUI fatwas are all people from various circles, both individuals and groups. In relation to DSN-MUI sharia economic fatwa applicants, some are mentioned directly¹⁵⁸ and some are not mentioned who the fatwa applicants are in the DSN-MUI fatwa decision, although in general DSN-MUI still mentions to whom the fatwa is addressed, ¹⁵⁹ in general the fatwas issued by DSN-MUI are based on:

- a. Requests or questions from the public that the Governing Council deems necessary discussed and given his fatwa.
- b. Requests or questions from the government, social institutions/organizations, or MUI itself.
- c. Development and findings of religious problems arising from changes in society and advances in science and technology.

2. Fatwa giver (*mufti*)

The next element is the fatwa giver, this element actually leads to the question of authority. This is because fatwas can only be given by people (*muftis*) who have certain authority, both moral and intellectual authority. Regarding sharia economic fatwas, DSN-MUI of course acts as the fatwa giver is DSN-MUI itself, but the real problem is how the *iftā'* authority of the DSN-MUI is obtained.

3. The third element of occurrence

The third element is the occurrence ("amr nāzil) of this occurrence closely related to the themes of fatwas generally fatwed by the mufti, which in this case is the DSN-MUI. This incident can generally be categorized into several problems including; 'Ibadah, Siyasah, Mu'āmalah, Munakah and others. DSN-MUI as a fatwa institution has its own specificity compared to fatwa institutions in general, the special pattern is only fatwa in matters related to the Islamic economy.

3.5 Format Fatwa

The main characteristic of DSN-MUI fatwas is the systematics of drafting fatwas that are more formal as outlined in the Fatwa Decree (SKF). In the SKF, the basics of legal action must be included along with a brief description and analysis, as well as the source of the collection. Similarly, each SKF is accompanied wherever possible by the formulation of follow-up and recommendations and/or solutions needed as a consequence of the SKF. For more details, the fatwa format of DSN-MUI can be seen in the Ijtima Ulama Fatwa Commission throughout Indonesia dated 20-22 Shawwal 1424 H / 14-16 December 2003 AD concerning Guidelines for Determining Fatwas of the Indonesian Ulema Council chapter V(*DSN-MUI – National Sharia Council – Indonesian Ulema Council*, n.d.).

4. CONCLUSION

From the various opinions of experts regarding fatwas is that fatwas are a decision or answer to problems that exist in the daily life of Muslims, issued by scholars or fatwa institutions that have authority in Islam. This fatwa contains guidelines or explanations of Islamic law to answer certain problems or problems that are not explicitly regulated in the Quran and hadith. Fatwas have an important role in providing orientation and guidance for Muslims in facing the times and challenges in various fields of life. Since the time of Prophet Muhammad (peace be upon him), fatwas have been one of the alternatives that could break the ice in the development of Islamic law, facing serious problems when dealing with growing problems that are not covered in religious naṣ-naṣ. Fatwas developed through mujtahid imams and their followers, and in the modern era, contemporary scholars such as Yusuf al-Qarḍawi and Wahbah Zuhaili emerged who had special characteristics in giving fatwas. The conditions of fatwa include the ability to do ijtihad and adhere to the validity of the hadith and not to relax and simplify the law. Fatwas play an important role in providing guidance and solutions in various aspects of Muslim life.

REFERENCES

- A, A. (n.d.). *MUI Fatwa in Contemporary Indonesian Dynamics*. (Jakarta). 2017.
- Abidin. (2011). *Tying Society with Fatwas*. PTS Professional Publishing.
- ali, M. M. (2016). *Fatwas and Ijtihad: A Study of the Terms and Forms of Fatwas in an Islamic Perspective*. Al-Kautsar Library.
- Al-Qaradawi. (2000). *Fiqh al-Mu'amalat: Economic Concepts in Islam*. Mizan.
- Antonio. (2019). *Islamic Economic System*. echo Insani Press.
- Azharrudin, M. (2016). *The position of Fatwas in Islamic Law*. Al-Kautsar Library.
- C, N. (2018). *Sharia and Contemporary Economics*. Deepublish.
- DSN-MUI – National Sharia Council – Indonesian Ulema Council. (n.d.). Retrieved July 1, 2023, from <https://dsnemui.or.id/>
- Matta, M. A., Didin Hafidhuddin, Hasan Bisri. (2017). *General Guidelines for Sharia Economic Fatwas DSN-MUI*. Darul Falah.
- Muhammad. (2017). *Contemporary Fatwas in Islamic economics*. Eagle Press.
- Mulkan, A. M. (2012). *Ijtihad and Fatwa: A Review of the Conditions of Fatwa in Islam*. echo Insani Press.
- N, U. (n.d.). *Fatwas and Contemporary Issues*. Al-Kautsar Library.
- Quraish, S. (2007). *Contemporary Fatwas*. Heart Lantern.
- Rahman, N. N. A. (2002). History of Fatwa Activities in the Al-Tabi'in Era. *Usuluddin Journal*, 16, 119–134.
- Riadi, M. E. (2013). THE POSITION OF FATWAS IS VIEWED FROM ISLAMIC LAW AND POSITIVE LAW (NORMATIVE JURIDICAL ANALYSIS). *Ulumuddin Journal of Islamic Legal Studies*, 7(1), Article 1. <https://doi.org/10.22219/ulumuddin.v7i1.1305>
- Wahyudi, H. F., & Fajar, F. (2018). The Ijtihad Method of the Fatwa Commission of the Indonesian Ulema Council and Its Application in Fatwas. *Horizon: Journal of Islamic Studies*, 13(2), Article 2. <https://doi.org/10.31603/cakrawala.v13i2.2402>
- Yahya, M. L. A. (2018). *Fatwa Terms and Procedures: A Comprehensive Study of Fatwas in an Islamic Perspective*. Al-Kautsar Library.