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Position and Progressivity of Islamic Economic Law in Indonesia

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Abstract:

Implementing Islamic economics is a necessity, including in Indonesia. The strengthening of Islamic economic law is very important in the implementation of all mechanisms that exist in the Islamic economic system. In Indonesia, the Islamic economy is growing very rapidly nowadays, even though there are still some challenges and obstacles. This study aims to determine the position and development of Islamic law in Indonesia with qualitative methods and documentation and a literature approach. The existence of the Islamic economy is marked by the development of Islamic financial institutions, such as Islamic Banking, and the Islamic Non-Bank Financial Industry (IKNB). Also, there are many improvements in Islamic economic law such as DSN MUI fatwa. The formation of DSN is a step efficiency and coordination of scholars in response to issues related to Islamic economic/financial issues as a law that drives everything in Islamic economic law in Indonesia

Keywords: Islamic economic law; Fatwas DSN-MUI; Progressivity and development

A. INTRODUCTION

The pluralistic economic system implemented by the state of Indonesia mutually impacts meeting the needs of society in various fields, one of which is the Islamic economic system. Indonesia has the largest Muslim population, and the implementation of a Sharia-based economic system is becoming very relevant, not only for the Muslim community but also for all elements of a multicultural nation. The Islamic economic system is considered to have a positive impact in creating more inclusive welfare and

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social justice. In short, the Islamic economic system can make many positive contributions that accommodate all aspects of people's lives.

The Indonesian government must be able to have a solution to the sustainability of the Islamic economic system that offers welfare and justice to maintain national social stability. Surely this becomes something very potential. Indonesia has the opportunity to become a country with the highest Islamic economic development in the world with a very large population. This should be supported by the growth and development of the Islamic economic system that has been long enough, along with the presence and development of Islam in this world. But along the journey, there are still many things to be fought after the apostolic time of Prophet Muhammad.

However, the implementation of the Islamic economic system in Indonesia is not without challenges. Since the beginning, Indonesia has adopted a more conventional economic system and a more dominant capitalist. The development of Islamic Economics in Indonesia is indeed late when compared to countries such as Malaysia which implemented the Sharia economic system earlier. Even so, the Indonesian government's efforts to support and develop the Islamic economic system continue, including through the establishment of Islamic financial institutions, such as Islamic banks, and the establishment of Sharia Supervisory Boards (DSN-MUI).

The fatwa issued by the DSN-MUI (Indonesian National Shariah Council) has indeed played a significant role in the development of Islamic economic law and has contributed positively to the growth of Islamic economics. By fostering a new methodology in modern *ijtihad*, the fatwa has introduced an approach that brings together a wide range of expertise. This collective *ijtihad* involves not only Islamic law scholars but also other relevant experts and stakeholders, ensuring a more comprehensive and well-rounded process of decision-making in matters of Islamic finance (Hasanudin, Mubarak, Maulana, 2023, p. 1269).

Along the way, the government continues to support and strive to develop all legal elements that exist in the Islamic economic system. The seriousness of the government was welcomed by the enthusiasm of the people. However, mere support and action is not enough. The Indonesian government must be able to commit and ensure that the Islamic economic system not only continues to exist, but also develops over time (Mukharom, et al, 2020, p. 48). The development of the Islamic economic system is important, because it is the responsibility of the government to accommodate the needs of the community.

The government needs to take more strategic steps, including strengthening regulations and laws, increasing Sharia economic literacy, and ensuring integration between the Islamic financial sector and other economic sectors. With these measures, the Islamic economic system in Indonesia can play a greater role in creating inclusive economic and social stability, which in turn will benefit all levels of society (Pratama, Disemadi, Praningtyas, 2020, p.223).

Philosophically, the ideal of Indonesian economic law is to initiate and prepare legal concepts about economic life. The desired economic life is the life of a nation and state whose people have welfare and social justice, as aspired by Pancasila. Starting from these elements, in the future, economic law must show an accommodative nature towards; *First*, the realization of a just and prosperous society. Economic law should encourage the creation of welfare for all levels of society, not just a few groups or individuals. It is concerned with achieving social justice which means a more equitable distribution of wealth and economic resources. *Second*, proportional justice in society. Economic justice not only speaks of sharing of results, but also of equal opportunities for each individual to participate in the economy. *Third*, the absence of discrimination against economic actors. In an ideal system of economic law, there should be no discrimination against economic actors. All business actors, be they individuals, cooperatives, or large companies, must have equal opportunities to compete and contribute to the economy. *Fourth*, unfair competition. One of the great challenges in economic law is to ensure that competition in the market runs in a fair and sound manner. Monopolistic practices, cartels, or forms of competition that harm society must be avoided, and economic law must be able to regulate and supervise economic activity so as not to harm consumers and small business actors (Iskandar, 2018, p.182).

In general, the ideals of Pancasila Economic Law whose ideology is in line with the expectations of the application of Islamic Economic Law contained in the maqashid of sharia with a core on building and creating the benefit of the world and the hereafter for mankind. Islamic Economics in its concept is to carry out various kinds of economic activities based on the principle of mutual at – ta’wwun (helping and cooperating with each other between members of society for good) and the principle of not doing dhalim to others.

Based on the description stated above, problems can be formulated, first, how is the position of the Islamic economy in Indonesia. Seeking to explore how Islamic economic principles and practices are positioned within the broader legal and economic framework in Indonesia. And second, the progressivity of Islamic economic law in Indonesia. Assessing the dynamic growth and evolution of Islamic economic law in Indonesia. It will examine how Islamic law has adapted to the needs of modern economic challenges, the effectiveness of its application in legal and financial systems, and the role of regulatory institutions (such as the DSN-MUI and OJK) in advancing this legal framework (Witro, Hakim, Komaruddin, 2021, p. 157).

B. METHOD

This research adopts a qualitative method with a focus on documentation and literature as the primary approach. The research aims to analyze and understand the implementation of Islamic economic law in Indonesia through the systematic collection and analysis of data. The focus of this research is to achieve an in-depth understanding of the application of Islamic economic law in Indonesia by examining the relationship between the legal framework, its practical implementation, and the challenges faced by stakeholders.

C. RESULTS AND DISCUSSION

1. Existence and Position of Islamic Economic in Indonesia

The existence of Islamic Economics in Indonesia can be seen as a phenomenon that is growing and accepted by the community. In this context, Islamic economics is not just a system or theory, but also an alternative solution to the existing conventional economic system. Islamic finance industry emerged as a response to the needs of the Times and historical demands to introduce a system more in line with the religious and moral values of the society. Islamic economics is needed to realize luck (*falah*) and good life (*halalan tayyib*) within the context of Shari'ah rules. It concerns the maintenance of faith, soul or life, intellect, posterity, and wealth (Chapra, cited in Idri and Baru, 2017, p. 334).

In Indonesia, the existence of the Sharia economy has become more widely known, especially with the growing number of Sharia-based financial institutions. This is also reinforced by research by Setiawati, et al (2018, p. 2) which states that Indonesian people have begun to understand and utilize financial products and services based on sharia principles.

The Islamic finance industry in Indonesia has also shown significant growth, with an increasing number of Islamic banks, and Islamic insurance, to the Islamic capital market (Amin, 2017, p. 345). The existence of this Sharia economy certainly provides an alternative for people who want to transact financially without involving elements of usury (interest) and elements that are not by Sharia principles.

Overall, the existence of the sharia economy in Indonesia reflects a move towards a more inclusive and equitable economic system, in line with the demands of the Times that are increasingly oriented to social welfare and economic justice.

Theoretically, the concept of Islamic banks first emerged in the 1940s with the idea of banking based on the principle of profit sharing, which avoids the practice of interest (*riba*) which is considered incompatible with Islamic teachings. This idea evolved along with the need to create a fairer and more transparent banking system, which is in line with Sharia values.

The development of modern Islamic banking internationally began with measures initiated by Egypt. In 1970, Egypt submitted a proposal for the existence of the International Islamic Bank development. This Proposal is one of the important milestones in global Islamic banking. In addition, in the same year, a conference was held in Karachi, Pakistan, involving the Organization of the Islamic Conference (OIC), at which there were further discussions on the creation of a Federation of Islamic banks. These steps are the beginning of the development of wider Islamic banking in the world.

In the 1970s, efforts to establish Islamic banks began to expand to various countries, including Indonesia. Indonesia then began to develop the Islamic banking sector by establishing Islamic banks that operate side by side with conventional banks. The existence of this Islamic bank provides an alternative for people who want to

transact in accordance with Sharia principles, such as fairness, transparency, and Prohibition of riba practices.

With this development, Islamic banks in Indonesia and other countries are beginning to show significant potential in creating a more inclusive and equitable financial system, as well as supporting economic growth based on Islamic values.

The initiative to establish Islamic banks in Indonesia began in 1980, which began with a discussion about the importance of Islamic banks as pillars of the Islamic economy. This discussion intensified, especially among scholars and economic experts, who saw the need to present a banking system in accordance with Islamic principles in Indonesia.

In 1990, the Indonesian Ulama Council (MUI) held a workshop on bank interest rates and banking in Cisarua, Bogor, West Java. This agenda became one of the important moments in finalizing the idea of Islamic banking in Indonesia. The results of the discussion and work of the Indonesian Ulama Council (MUI) banking team finally prompted the establishment of the first Islamic bank in Indonesia, namely PT Bank Muamalat Indonesia (BMI). The Bank was established on the basis of the certificate of establishment on November 1, 1991.

Since it began operations on May 1, 1992, BMI has become an important first step in the development of Islamic banking in Indonesia. Bank Muamalat Indonesia not only serves as a banking institution, but also as a pioneer in introducing the concept of banking in accordance with Islamic law, which emphasizes the principle of profit sharing (*mudharabah*), buying and selling (*murabahah*), and the prohibition of usury.

Since then, the development of Islamic banks in Indonesia has continued to grow rapidly, with many other Islamic financial institutions emerging to meet public demand for a financial system that is more equitable, transparent, and in accordance with Sharia principles. The establishment of Bank Muamalat Indonesia is an important milestone in the journey of the Sharia economy in Indonesia.

Islamic finance in Indonesia has indeed experienced a very significant development since the operation of Bank Muamalat Indonesia (BMI) in 1992. More than two decades later, the Islamic finance industry continues to show rapid growth, both in terms of the number of Islamic financial institutions and products offered to the public. This reflects the increasing need and public interest in Sharia-based financial services.

Along with these developments, the Islamic finance sector has also produced significant achievements. One of them is the increasing number of banking products and services that are increasingly diverse, including financing, savings, investment, and insurance products that are in accordance with Sharia principles. Islamic banks and other Islamic financial institutions in Indonesia now offer financial solutions covering all sectors, from banking, and Islamic capital markets, to Islamic insurance.

In addition, the Islamic financial sector also supports the development of infrastructure oriented to the Islamic economy in Indonesia. Various Islamic financial

institutions, such as banks, finance companies, and capital markets, play an active role in funding development projects based on Islamic values, such as financing for small and medium enterprises (SMEs), social projects, and real sector development that has a direct impact on people's welfare (Kumara, et al, 2020, p. 3).

Islamic economic development in Indonesia is also driven by government policies that increasingly support Islamic financial inclusion, such as regulations that strengthen the Islamic financial sector, including the development of State sukuk and other Islamic investment instruments. This shows that Islamic finance in Indonesia is not only developing within the scope of financial institutions but also as an integral part of the Indonesian economy as a whole.

With all these achievements, the Islamic finance industry in Indonesia is not only becoming an increasingly popular alternative but also increasingly has an important role in sustainable and equitable National Economic Development.

2. Development of Islamic Financial Institutions

The Islamic financial sector in Indonesia has undergone a very rapid transformation, with the development of various types of financial services based on Sharia principles. The diversity of products and services offered reflects not only the high interest of the community but also the ability of the Islamic finance sector to meet the diverse financial needs of the community.

In addition to Islamic banking, which is indeed the main backbone, we also see significant developments in other sectors, such as Islamic insurance, which provides an alternative for people who want to insure by avoiding elements of *gharar* (uncertainty) and usury. Islamic pawnshops also play a role in providing pawn services that are by Sharia principles, providing access to communities in need of short-term financing in a more equitable way and by Islamic law.

On the other hand, Islamic financing is increasingly being expanded by many financial institutions that offer products that are based on profit sharing and do not involve interest, as is done by Islamic financing institutions that provide facilities for financing vehicles, property, and business capital.

Sharia venture capital companies are starting to get attention, by providing funds to startups or startups that want to develop with Sharia principles, which is very relevant in the digital ecosystem and small and medium enterprises (SMEs) that are growing rapidly in Indonesia (Indris and Primiana, 2020, p.10)

This diversity shows that the Islamic finance sector is now not only limited to banking products but also increasingly covers various aspects of economic life, allowing people to have more choices in managing their finances by Sharia principles. This certainly creates a more inclusive and equitable economic ecosystem and has a positive impact on the Indonesian economy as a whole.

The challenges faced by Islamic financial institutions in Indonesia cannot be underestimated, especially in the era of an increasingly competitive free market. Some of the key challenges you mentioned are very relevant and key to developing the Islamic finance sector in the country. Each of those challenges:

a. Innovative Product Development

The first challenge related to the development of innovative products is how Islamic financial institutions can remain relevant and compete with conventional financial institutions that have a wide range of financial products and services. Innovation is needed, both in terms of financing, savings, and investment products, to meet the needs of an increasingly diverse modern society. Sharia products offered must meet sharia principles such as fairness, transparency, and avoiding *riba* and *gharar* elements (Abdullah, et al, 2024, 147). For this reason, Islamic financial institutions need to work together with competent parties, such as fintech or technology companies, to create more practical and efficient financial solutions without sacrificing these principles.

b. Operational Efficiency

The second challenge related to operational efficiency is indeed a key in improving the competitiveness of Islamic financial institutions. Many Islamic financial institutions are not fully optimized in the use of technology and efficient management, which can increase operational costs. For this reason, Islamic financial institutions need to adopt modern technologies such as digital banking, online payment systems, and technology-based investment platforms to reduce costs and improve service quality. In addition, more efficient managerial processes and the use of more integrated information systems can also help speed up services and lower operational costs.

c. Competitiveness of Human Resources (HR)

The third challenge is about the quality and competence of human resources working in the Islamic financial sector. Sharia financial institutions need human resources who not only understand sharia principles, but also have adequate technical and managerial expertise. Continuous training and competency development in the field of Islamic finance, as well as an understanding of the latest technology, are essential for human resources to compete at a global level. Governments and educational institutions also need to play an active role in producing professionals who have expertise in this field, both through a more targeted educational curriculum and more intensive training programs (Syamsul, et al, 2025, p.79).

Overall, to meet these challenges, Islamic financial institutions in Indonesia need to continue to innovate, improve operational efficiency, and strengthen human resources capacity. Through these measures, the Islamic finance sector can continue to grow and contribute significantly to the Indonesian economy, while maintaining its integrity and sharia principles.

3. Legality of Islamic Economic Law in Indonesia

Sharia economic law in Indonesia does have a fairly strong legal basis, which includes various aspects of legislation and fatwas issued by the National Sharia Council-Indonesian Ulama Council (DSN-MUI). This ensures that economic practices based on sharia principles can run in accordance with applicable legal provisions in Indonesia. Some of the laws and regulations governing Sharia economic law in Indonesia include:

a. Law No. 21 of 2008 on Islamic Banking

This law is the main foundation for the regulation of Islamic banking in Indonesia. This law, regulates the establishment of Islamic banks, operational mechanisms, as well as the relationship between Islamic banking institutions with the public, which must be by Sharia principles, such as the Prohibition of usury and *gharar*. This law also provides a legal basis for the development of the Islamic banking industry in Indonesia.

b. Law No. 19 of 2008 on State Sharia Securities (SBSN)

This law regulates the issuance and transaction of Sharia securities issued by the state, which are used for development and financial management of the state. SBSN or state sukuk provides investment instruments that are in accordance with Sharia principles, which is an alternative for people who want to invest without violating religious principles.

c. Zakat Law

This law regulates the management of zakat in Indonesia, which is one form of wealth redistribution in the Sharia economy. Zakat serves as an instrument to improve social welfare and reduce economic inequality.

d. Waqf Law

Waqf also has an important role in the Sharia economy, which is regulated in this law. Waqf allows Muslims to donate their assets for social and religious purposes, the proceeds of which can be used for social development, education, or health.

e. Insurance Law

This law regulates the implementation of insurance, including sharia insurance. Sharia insurance is different from conventional insurance because it puts forward the principle of mutual assistance (*ta'awun*) and profit sharing (*mudarabah*), not based on an interest system.

In addition to legislation, fatwas from DSN-MUI also play an important role in determining the direction of Sharia economic law in Indonesia. These fatwas serve as guidelines for Islamic financial institutions to ensure that the products and services they offer are by Sharia principles. The DSN-MUI Fatwa can also be used as a legal basis in a judge's decision when there is a case involving Sharia economic issues, thus providing legal certainty for people who transact with the Sharia system.

With the existence of clear legislation and detailed fatwas, Sharia economic law in Indonesia has become more structured and strong. It also supports the rapid development of the Islamic financial sector in Indonesia, so as to provide a more equitable and sustainable alternative in the world economy.

4. The Role and Challenges of Fatwa of DSN MUI

Fatwa of the National Sharia Council (DSN) of the Indonesian Ulema Council (MUI) plays a very crucial role in the application of sharia principles in various economic sectors in Indonesia. The DSN-MUI fatwas provides clear guidelines on Sharia accountability in economic activity, which is critical in ensuring that financial and business activities in Indonesia remain by Sharia principles. Here are some of the main roles of DSN-MUI fatwas in Sharia economic law:

First, as a guide to the implementation of Sharia principles in Sharia banking. DSN-MUI Fatwa has become the main guideline in Sharia banking operations in Indonesia. The sharia principles contained in the DSN-MUI fatwa, such as the prohibition of *riba*, *gharar*, and *maisir*, ensure that all banking activities, such as financing, deposits, and other transactions, are carried out in a manner that is by Sharia. This Fatwa provides the basis for Sharia contracts used in Islamic banking, such as *mudharabah*, *murabahah*, *ijarah*, and *istishna* contracts. With this fatwa, Islamic banking institutions can operate with confidence that each of its products and services are in accordance with Sharia principles.

Second, Fatwa DSN-MUI also serves as a reference in the establishment of legislation related to Sharia economy in Indonesia. For example, in the Making of Law No. 21 of 2008 on Sharia banking or law on Zakat and Waqf, the DSN-MUI fatwa can be used as a reference in formulating regulations in accordance with Sharia principles. It aims to ensure that the regulations implemented in Indonesia are in line with the teachings of Islam, as well as facilitate the implementation of economic activities by Sharia.

Third, The DSN-MUI Fatwa also serves as a foundation for jurists and advocates in providing legal opinions or arguments in judicial processes involving Sharia economics. In legal cases related to Sharia banking, Sharia Capital Markets, Sharia insurance, or other Sharia transactions, DSN-MUI fatwas are often used as the basis for legal opinions to determine whether a transaction or action is in accordance with Sharia principles or not. In this context, the DSN-MUI fatwa serves as an important reference in the Indonesian legal system based on positive law and religious law.

This statement reflects the major challenges faced by the Islamic finance sector in Indonesia, particularly in relation to the implementation of the DSN-MUI fatwa in day-to-day operations. DSN-MUI fatwas do provide important guidelines regarding Sharia contracts used in Islamic financial institutions.

However, as revealed by Pradja JS (2015), there are several reasons why the implementation of DSN-MUI fatwas can be very challenging:

a. Limited Human Resources (HR) quality

The lack of qualified Sharia economic practitioners is one of the main challenges in the implementation of DSN-MUI fatwas. To ensure that the operations of Islamic financial institutions run properly and in accordance with Sharia principles, practitioners are required to have a deep understanding of Sharia contracts and the principles contained in each transaction. This limitation of trained human resources makes the implementation of fatwas not optimal because practitioners involved in the implementation of Islamic banking often find it difficult to interpret and implement these fatwas in daily practice.

To solve this problem, it is important to conduct continuing education and training for practitioners of sharia economics, so that they can understand and implement the DSN-MUI fatwa appropriately. Educational institutions and Islamic financial institutions need to work together in developing a more in-depth and applicable curriculum in this field.

b. The complexity of implementing DSN-MUI fatwas in Sharia financial operations

DSN-MUI fatwas are often prepared in fairly technical and formal language, so they can be difficult to understand and apply by those involved in day-to-day practice in the field. Sometimes, practitioners or managers of Islamic financial institutions have difficulty interpreting and adapting fatwas to the rules of the real world, which are often full of dynamics and complexity.

Therefore, DSN-MUI fatwas into simpler and structured operational practices is very necessary. The preparation of operational guidelines that are easier to understand and clearer application can help accelerate the implementation of fatwas in Islamic financial institutions.

c. Integration of DSN-MUI fatwas with national regulations

Sometimes, there is a gap between DSN-MUI fatwas and national banking regulations, which can cause difficulties in their application. For example, although the DSN-MUI fatwas provides clear guidelines regarding sharia contracts, the existing rules in the national legal system or financial sector regulation do not always fully support such implementation, or even contradict it in some respects.

To overcome this, it is important that there is a more intense dialogue between the authorities that issued the fatwa, such as DSN-MUI, with financial sector regulators such as OJK. This can ensure that the regulations applied still cover aspects of Sharia without contradicting the legal regulations in force in Indonesia.

d. Infrastructure and technology limitations

Another challenge that is no less important is the problem of infrastructure and technology in Islamic financial institutions. Although Islamic financial technology (fintech) is starting to develop, there are still many Islamic financial institutions that have not fully utilized digital technology in carrying out daily operations. With technological

limitations, the application of DSN-MUI fatwas in digital transactions or online platforms can encounter various technical obstacles.

Based on literature research, there are several solutions that can be taken to overcome the problems associated with the application of Islamic economic law by the DSN-MUI fatwa in the operations of Islamic financial institutions in Indonesia:

a. Development of training and certification programs

Islamic education institutions and financial institutions need to develop more focused and systematic training programs to prepare skilled human resources in Islamic economic practices. Certification for practitioners can also help ensure a higher standard of professionalism.

b. Dissemination and simplification of fatwas

Simplifying the language and developing clear operational guidelines will make it easier for Islamic financial institutions to implement DSN-MUI fatwas in daily practice. A more applied and case study-based approach could help in this regard.

c. Increased cooperation between regulators and DSN-MUI

Improve coordination between DSN-MUI with authorities such as OJK and Bank Indonesia to align Sharia regulations with existing policies in the national banking sector. With a harmonious regulation, the implementation of fatwas can be smooth and effective.

D. CONCLUSION

The existence of the role of the Sharia economy in human life is needed to create the benefit of life in society, including one of them in Indonesia. Indonesia has initiated and escorted the growth of the sharia economy is quite good. If viewed from the point of view of structure and institutions, Indonesia has been able to increase the growth and development of Islamic financial institutions. Of course, the existence of Islamic financial institutions cannot be separated from the Islamic economic laws applied in Indonesia.

Islamic Economic Law implemented in Indonesia is broadly enough to support the running of the Sharia economic system. even on the way, there are still some shortcomings that must be corrected by all elements in society, especially the government which has a role as a regulator. some of the challenges include Limited Human Resources quality, the complexity of implementing the law so it's needed simplification of the law, the integrations, and also the infrastructure by what has been shown above.

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