

3. TEXT AUTHORIZATION IN THE DEVELOPMENT OF SHARIA ECONOMIC LAW IN INDONESIA

by Imam Mustofa

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**TEXT AUTHORIZATION IN THE
DEVELOPMENT OF SHARIA ECONOMIC LAW
IN INDONESIA:
Study of the Fatwa of the National Sharia Council of the
Indonesian Ulama Council**

Imam Mustofa; Hasanudin

Faculty of Sharia IAIN Metro, Indonesia; UIN Syarif Hidayatullah Jakarta,
Indonesia

Email: mustofaiaain@metrouniv.ac.id

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Abstract

DSN-MUI fatwa is a reference for the sharia standardization in Islamic financial institutions. Fatwa not only refers to primary references (Quran and Sunnah) strengthened by jurisprudence, but also secondary references such as ulamas' opinions. This study analyzes the fatwa used as a text-based religious authority by the fatwa institution. This is a literature review which qualitative data are from primary and secondary sources collected through documentation, by reading the fatwa on Islamic finance from 2000-2012. Meanwhile, secondary data are articles, books, or studies related to the authority of religious texts in the sharia economic law discovery and development. The content analysis method was applied. This study found that of the 122 fatwas compiled in the DSN-MUI fatwa book, there were 47 fatwas (38.5%), referring to the opinions of salaf and contemporary ulamas as the basis, or as arguments and legitimacy. Based on the findings and analysis, the religion's legitimacy and authority are at least based on two main things, the agents forming authority and references forming authority. Issuance of fatwa in sharia economic development is an attempt to reproduce the text's authority. This study affirms previous studies reinforcing MUI as the religious authority, particularly in sharia economics.

Fatwa DSN-MUI menjadi rujukan standarisasi kesyariahan sebuah lembaga

keuangan syariah. Fatwa tidak hanya merujuk pada referensi primer (Quran dan sunnah) yang diperkuat dengan kaidah fikih, tetapi juga pada referensi sekunder dari pendapat para ulama. Kajian ini bertujuan menganalisa fatwa yang dijadikan otoritas keagamaan yang bertumpu pada teks oleh lembaga fatwa. Penelitian ini merupakan kajian kepustakaan dengan pendekatan kualitatif bersumber dari sumber data primer dan sekunder. Pengumpulan data dilakukan dengan dokumentasi, yaitu membaca fatwa tentang keuangan Syariah tahun 2000-2012. Data sekunder yaitu artikel, buku atau kajian terkait otoritas teks agama dalam penemuan dan pengembangan hukum ekonomi syariah. Data dianalisis dengan metode analisis isi. Kajian ini menemukan, dari 122 fatwa dalam buku kumpulan fatwa DSN-MUI, terdapat 47 fatwa (38,5%) yang merujuk pendapat ulama salaf dan kontemporer sebagai landasan fatwa-fatwa tersebut, atau setidaknya sebagai argumen dan legitimasi. Penelitian menunjukkan bahwa legitimasi dan otoritas agama setidaknya bertumpu pada dua hal pokok yaitu agen pembentuk otoritas dan referensi pembentuk otoritas. Penerbitan fatwa dalam konteks pengembangan ekonomi syariah merupakan upaya mereproduksi otoritas teks. Kajian ini mengafirmasi kajian-kajian sebelumnya yang menyatakan penguatan MUI sebagai pemegang otoritas keagamaan, khususnya dalam bidang ekonomi syariah.

Keywords: fatwa, religious authority, text authority

Introduction

Authority is always related to power because the authority will not work without power. On the other hand, power is a way to gain obedience to decisions made by those in positions of authority.¹ Hannah Arendt notes that authority is a form of the legitimacy of political power that arises from belief in a source that transcends the realm of Politics.² This also applies to religious authority, although the understanding of religious authority will be more complex. Religious authority is an elusive concept and hard to define. Following Max Weber, authority describes the ability (opportunity) to make rules, and one's rules are followed or obeyed without the support of the coercive force. Religious authority can take some forms and functions: the ability (accidentally, power, or right) to define true beliefs and practices, or orthodoxy and orthopraxy, respectively; to shape and influence the views and behavior of others as expected; to identify, marginalize, punish or exclude deviations, heresies and apostasy, and their agents and supporters. In monotheistic religions based on revealed scriptures, religious authority further involves the ability (accident, power, or right) to compose and define *qanuns* of

1 Miller dan Weitz as it is cited by Zulkifli, "The Ulama in Indonesia: Between Religious Authority and Symbolic Power," *MIQOT: Jurnal Ilmu-ilmu Keislaman* 37, num. 1 (June 2013): 185, <http://dx.doi.org/10.30821/miqot.v37i1.79>.

2 See more Mark Haugaard, "What Is Authority?," *Journal of Classical Sociology* 18, no. 2 (May 2018): 4, <https://doi.org/10.1177/1468795X17723737>.

“authoritative” texts and methods of legal interpretation.³

Khaled Abou el-Fadl divides the nature of authority into two types, coercive and persuasive. Coercive authority is the ability to direct the behavior of others by persuading, taking advantage, threatening, or punishing. This authority forces others to submit to their thoughts and will. This coercive authority is usually related to political power, which with all its apparatus, has the power to coerce and punish. Meanwhile, persuasive authority is the ability to direct the beliefs and behavior of others based on trust. Therefore, persuasive authority involves normative power that comes from within the person. This type of authority is usually associated with one’s knowledge, charisma, and many other traits.⁴ In the context of religious authority, these two authorities cannot be separated from religious texts, especially those related to law.

The study of texts in Islamic law is closely related to the main references, the Quran⁵ and Sunnah,⁶ and this also applies to the study of Islam on a broader context. Nashr Hamid Abu Zayd noted that text is a series of signs arranged in an arrangement of relations that produce an overall meaning that carries a message. Religious texts cannot always be directly used as is, and many texts require understanding, explanation, and interpretation. According to him, the text is divided into primary text (*al-nash al-ashliyy*) and secondary text (*al-nash al-tsanawiy*). The primary text is the Quran, and the secondary text is the Sunnah of the Prophet, which acts as a commentary on the primary text. Meanwhile, religious texts produced from the *ijtihad* of ulamas, Fiqh experts, and *mufasir* are

3 Gudrun Krämer, *Speaking for Islam: Religious Authorities in Muslim Societies*, ed. Sabine Schmidtke, vol. 100, Social, economic and political studies of the Middle East and Asia (Leiden; Boston: Brill, 2006), 1–2.

4 Khaled Abou El-Fadl, *Speaking in God’s Name: Islamic Law, Authority and Women* (Oxford: Oneworld, 2005), 50–51.

5 The text of the Quran is considered eternal and inviolable as far as its words are concerned. However, like any text, sacred or otherwise, the Quran requires an active mind to explore its meaning and apply its directions to changing situations. While it may be too bold for most Muslims to say that explicitly, the Quranic text is mute and requires interpretation in light of matters of religious authority, therefore most would accept that to be relevant to their lives. The field of Quranic exegesis (*tafsir*) is wide and varied, and much of it continues to be studied, especially regarding the social “attachments” of individual interpreters, the traditions of exegesis, and the hermeneutic approaches advocated by them. See Krämer, *Speaking for Islam: Religious Authorities in Muslim Societies*, 100:4.

6 Al-Quran and al-Sunnah are sources of authentic authority in Islam. Nonetheless, in essence the authority of the two sources is the absolute form of God’s authority, and the will of the prophet in al-Sunnah is basically the will of God. In this case, Muhammad’s authority does not undermine the decision maker’s image of Allah, but rather strengthens it. See Jon Elster, Avishai Margalit, and Edna Ullmann Margalit, *The Concept of Authority A Multidisciplinary Approach: From Epistemology to the Social Sciences* (Rome: Fondazione Adriano Olivetti, 2007), 46.

included in secondary texts.⁷

Text, as one of the essential elements for Muslims, does not only act as a symbol but also a representation of authority that connects family resemblance among Muslim communities.⁸ In her research on the Pakistan-based Jamaah Tabligh (JT) network, Barbara Metcalf proved the text's significance for the JT community and the Muslim community in general. According to Metcalf, Hadith and the Quran, as contained in texts and even *syarhal-nushus*, also function as a framework for criticism and auto-criticism of cultures that are not following Islamic traditions. Submission of the text in a Muslim community continuously functions to answer the community's problems, which is the object of the text. At the same time, this proves the intrinsic authority of the text, which seeks to carry out the competition and cultural reproduction of the community. The text represents a particular opinion that is an effort to give birth to or preserve a particular tradition; at the same time, it also reacts to other opinions and traditions.⁹

Regarding the authority of ulama fatwa in Indonesia, Kaptein presents the concept of religious authority, which is reflected in the ulama fatwa. Through the medium of fatwas, the ulamas express their opinions from the point of view of Islamic Law on all kinds of topical issues presented to the Muslim community. Kaptein describes several vital developments in the institution of issuing fatwa in Indonesia in the last hundred years, which can be considered to show characteristics related to religious authority.¹⁰ Indeed, Islamic ulamas and jurists in the context of a Muslim majority are closely linked to the state and play a key role in shaping the boundaries of what is sharia and what is generally accepted as Islamic.¹¹ Religious authority played by the ulama has long collaborated with power. The cooperation of religious power and authority, which continues to be played by the ulama and political figures, produces a powerful dose of legitimacy.¹² Recent developments

7 Nashr Hamid Abu Zayd, *Al-Imam al-Syafi Wa Ta'sisu al-Idiyulujjyab AlWasathiyab* (Beirut: Al-Markaz al-Tsaqafi al-'Arabi, 2007), 22.

8 Clifford Geertz, *Islam Observed: Religious Development in Morocco and Indonesia Chicago* (Illinois: The University of Chicago Press, 1968), 66.

9 Subkhani Kusuma Dewi, "Otoritas Teks Sebagai Pusat Dari Praktik Umat Islam," *Jurnal Living Hadis* 1, no. 1 (Desember 2016): 212, <https://doi.org/10.14421/livinghadis.2016.1074>.

10 Nico J. G Kaptein, "The Voice of the 'Ulama': Fatwas and Religious Authority in Indonesia," *Archives de Sciences Sociales des Religions* 125, no. 1 (January 2004): 115–130, 10.4000/assr.1038.

11 Ceren Lord, "Between Islam and the Nation; Nation-Building, the Ulama and Alevi Identity in Turkey: Turkey's Ulama," *Nations and Nationalism* 23, no. 1 (January 2017): 48–67, <https://doi.org/10.1111/nana.12238>.

12 Joseph A. Kechichian, "The Role of the Ulama in the Politics of an Islamic State: The Case of Saudi Arabia," *International Journal of Middle East Studies* 18, no. 1 (1986): 53–71, <https://doi.org/10.1017/S002074380003021X>; Arun Shourie, *The World of Fatwas, or, The Shariat in Action* (Noida: Uttar Pradesh, 2012).

in the Muslim world illustrate a complex picture of the cooperation of religious power and authority, and what happened in Saudi Arabia is the most obvious example.

Studying religious authority in Indonesia cannot be separated from the Indonesian Ulama Council (MUI). The MUI, in implementing sharia in Indonesia, attaches to the claims of “religious authority” in several aspects, both claims by the MUI itself, society, and claims made by the state. MUI’s involvement in Islamic finance is evident, starting from providing legitimacy and ethical guidelines for the operation of Islamic Financial Institutions to resolving sharia business disputes, which is a form of implementation of the mandated religious authority. The involvement of the ulama in every moment that collaborates with specific “forces” (more often) with the authorities is a form of their active role in change, and that role in the contemporary era is increasingly visible. This is different from the role in the colonial era, where the ulama more “contemplated” improving personal moral quality.¹³ Zaman emphasized that this cannot be separated from the contestation of religious authority. This is the focus of Zaman in some of his research on the theme of ulamas and modernity.¹⁴

Along with the strengthening of ulama’s role, the development of the times has also affected the “shifting of the authority of the ulama” from the traditional to the contemporary or even those who are “ulama’ized”. This often happens in political problems, for example, the emergence of the *Aksi Bela Islam*¹⁵ (series of Islamist uprisings and protests against Governor of Jakarta Basuki Tjahaja Purnama, who was accused of committing blasphemy of the Quran) movement. Religious authority has indeed become a bone of contention for many interest groups and ideologies, from the traditional to the reformist, moderate, liberal, and radical.¹⁶ Wahid’s study clearly shows the fragmentation and map of the struggle for religious authority in Indonesia, both in history and recent developments. Wahid found that *Kiai* and other traditional religious leaders in the past led religious authority in Indonesia. However, along with the times, new religious elites emerged in Indonesia, such as Islamic missionaries, *da’i* (preachers), and the *salafi*, who have given a new color to the issue of religious authority. Struggles and even “fights”

13 Muhammad Qasim Zaman, *The Ulama in Contemporary Islam: Custodians of Change*, Princeton Studies in Muslim Politics (Princeton, NJ: Princeton University Press, 2002).

14 Muhammad Khalid Masud, Armando Salvatore, and Martin van Bruinessen, eds., *Islam and Modernity: Key Issues and Debates* (Edinburgh: Edinburgh University Press, 2009).

15 Ahmad Najib Burhani, *Plural Islam and Contestation of Religious Authority in Indonesia: In Islam in Southeast Asia*, ed. Norshahril Saat (Singapore: ISEAS–Yusof Ishak Institute Singapore, 2018), 140–163, <http://www.degruyter.com/view/books/9789814818001/9789814818001-009/9789814818001-009.xml>.

16 Zulkifli, “The Ulama in Indonesia: Between Religious Authority and Symbolic Power,” 79.

occur between actors to maintain religious authority.¹⁷ The shift in authority is inseparable from the role of the media.¹⁸

This study focuses on strengthening the religious authority of the MUI through the National Sharia Council (DSN) fatwa. The strengthening of this authority cannot be separated from the reproduction of the authoritative text on the DSN-MUI Fatwa, especially on the issue of the operational legitimacy of Islamic financial institutions in Indonesia. The authority of the text used as legitimacy for DSN-MUI fatwas comes from traditional ulamas (salaf) and contemporary ulamas as contained in *turath* books (yellow books) which are used as the basis for establishing fatwas related to sharia finance. The book of the Salaf (ancient or classic) or commonly also called the yellow book or *turath* is the work of Muslim intellectuals across the ages, which began from the end of the first century Hijriyah to the beginning of the fifteenth century.¹⁹ Ali Jumu'ah summarizes the salaf's works based on time, from the end of the first century to the beginning of the fifteenth-century hijrah. In comparison, Bruinessen did not provide a specific time limit for categorizing the salaf or yellow books. According to him, the yellow book is categorized as a salaf book or a modern book depending on the style of thought contained in it.²⁰ Based on the definition of 'Ali Jumu'ah, the works of ulamas from the beginning of the fifteenth century hijrah are the works of contemporary ulamas.

Research Methods

This study is a literature review with qualitative data. Data comes from two sources, primary and secondary data sources. The data collection method used is documentation, namely by reading the DSN-MUI fatwa on Islamic finance from 2000 - 2012 as the primary material. The year's limitation is based on the high level of productivity of the DSN-MUI fatwa in line with the growth of the sharia economy in Indonesia. While secondary data are articles, books, or studies related to the authority of religious texts in the discovery and development of sharia

17 Din Wahid, "Challenging Religious Authority: The Emergence of Salafi Ustadhs in Indonesia," *Journal of Indonesian Islam* 6, no. 2 (December 2012): 245, <https://doi.org/10.15642/JIIS.2012.6.2.245-264>.

18 Mutohharun Jinan, "New Media And The Shifting Of Muslim Religious Authority In Contemporary Indonesia," in *Proceeding 1 Conference Proceedings Annual International Conference on Islamic Studies XII*, vol. 5-8 (Surabaya: IAIN Sunan Ampel Surabaya Indonesia, 2012), 1011-1032.

19 Ali Jumu'ah Muhammad, *Al-Madkhal Ila Dirasah al-Madzhab al-Fiqhiyyah* (Kairo: Dar al-Salam, 2001), 13-16.

20 Martin van Bruinessen, "Kitab Kuning: Books in Arabic Script Used in the Pesantren Milieu," *Bijdragen tot de taal-, land- en volkenkunde / Journal of the Humanities and Social Sciences of Southeast Asia* 146 (1990): 244, <https://doi.org/10.1163/22134379-90003218>.

economic law. The researcher is the main instrument in this study in collecting these two types of data.

The collected data are analyzed using the content analysis method, which is a technique for making replicable inferences and valid data by taking the context into account.²¹ The author analyzes data by applying the following steps: first, mapping the fatwas of the National Sharia Council of the Indonesian Ulama Council (DSN-MUI). Second, examining the authority of the DSN-MUI in issuing fatwas related to sharia financial and business regulations. Third, analyzing the text's authority, namely the opinions of the salaf and contemporary ulamas in the books that become the reference and basis for the DSN-MUI fatwas. As qualitative research,²² this research applies inductive analysis. Researchers will group data into various themes and specific patterns. Next, the writer will formulate the themes and patterns based on notes on the available data.

MUI as an Agent for Establishing the Authority of the Fatwa Text on Sharia Economic Law in Indonesia

Religious texts are inanimate objects, and to use them requires study, interpretation, and dialogue. Then who has the right to interpret and describe God's will in these texts? Indeed, God does not need "assistances" to show his power. However, the existence of figures who are considered "representations" of God's power through religion can actually be a kind of light to direct people to the path of truth. This becomes the basis for the role of Ulama as an agent forming religious authority. We have explained in the introduction that the MUI is one of the religious authorities in Indonesia.

As a gathering place for ulamas, MUI can be said to be an agent who has the credibility to speak and convey religious messages. The view of the death and development of religion is largely determined by the activeness of the "dealers" and "agents" who market their religion.²³ Religious texts will have power and become religious authorities through the particular figure or institution, such as the imam of a mosque, Islamic boarding school, or madrasah. An example of religious authority in the form of a mosque imam figure is what Robinson (Ed.) describes in his work *Mosques and Imams: Everyday Islam in Eastern*

21 Klaus Krippendorff, *Content Analysis; an Introduction to Its Methodology* (London: Sage Publication, 2004).

22 Norman K. Denzin and Yvonna S. Lincoln, *Hand Book of Qualitative Research* (Yogyakarta: Pustaka Pelajar, 2009), 272.

23 Rumadi, "Islam Dan Otoritas Keagamaan," *Walisongo: Jurnal Penelitian Sosial Keagamaan* 20, no. 1 (Mei 2012): 26, <https://doi.org/10.21580/ws.20.1.183>.

Indonesia.²⁴ The incarnation of text authority into religious authority can also be in the form of *tariqa*,²⁵ Kiai and Islamic Boarding School²⁶, and Kiai²⁷ and Dhikr assemblies.²⁸ The character of religious authority, which tends to be attached to the palace, is described by Adlin Sila through the case of Bima in West Nusa Tenggara – a Muslim society undergoing a process of Islamization with powerful influence from Gowa, South Sulawesi.²⁹ Meanwhile, religious authorities represented in state institutions are like the Islamic Sharia Service in Aceh.³⁰

Islamic religious authority derives from the Quran's basic texts and the Prophet's Sunnah. In this context, a person who masters both texts has a more critical role than an institution as a source and mediator in religious knowledge and authority matters. In either pre-modern and modern times, a jurist or legal ulama has greater authority than caliphs, sultans, and other rulers.³¹

Religious authority in Islam is the right and authority to carry out religious rules that are considered following the rule maker (Allah) in the text. In this regard, Gaborieau noted, "religious authority means, therefore, the right to impose rules which are deemed to align with the will of God".³² Based on this definition, the owner of religious authority is a party that has the capability to understand the source texts of religious teachings that contain Islamic religious messages, both individuals and institutions. The owner of this authority is usually called a cleric, *ustaz* or Kiai. They are considered to have the authority to interpret and convey text messages, and the results become a guide for the community.³³

24 Kathryn M. Robinson, ed., *Mosques and Imams: Everyday Islam in Eastern Indonesia* (Singapore: NUS Press, 2020).

25 Martin van Bruinessen, *Kitab Kuning Pesantren Dan Tarekat: Tradisi-Tradisi Islam Di Indonesia* (Jogjakarta: LKiS, 1995).

26 Zamakhsyari Dhoefier, *Zamakhsyari Dhoefir, Tradisi Pesantren: Studi Tentang Pandangan Hidup Kyai* (Jakarta: LP3ES, 1994).

27 Endang Turmudi, *Struggling for the Umma: Changing Leadership Roles of Kiai in Jombang, East Java* (Canberra: ANU Press, 2006).

28 Arif Zamhari, *Rituals of Islamic Spirituality: A Study of Majelis Dhikr Groups in East Java* (Canberra: ANU Press, 2010).

29 Abdul Wahid, "Pergumulan Praktik, Identitas, Dan Otoritas Islam Di Indonesia Timur," *Studi Islamika* 27, no. 3 (2020): 603, <https://doi.org/10.36712/sdi.v27i3.18822>.

30 Arskal Salim and Marzi Afriko, "Aceh's Shariah Office: Bureaucratic Religious Authority and Social Development in Aceh," in *The New Santri: Challenges to Traditional Religious Authority in Indonesia*. (Singapore: ISEAS Yusuf Ishak Institute, 2020).

31 Krämer, *Speaking for Islam: Religious Authorities in Muslim Societies*, 100:3.

32 Cited by Azyumardi Azra, Kees van Dijk, and Nico J.G Kaptein, *Varieties of Religious Authority: Changes and Challenges in 20th Century Indonesian Islam* (Singapore: ISEAS, 2010), 3.

33 See more Azyumardi Azra, *Konteks Berteologi Di Indonesia: Pengalaman Islam* (Jakarta: Paramadina, 1999), 155–180.

Religious authority can assume several forms and functions: the ability (opportunity, power, or right) to determine correct beliefs and practices, or orthodoxy and orthopraxy, respectively, to form and influence views and act according to particular wills, to identify, marginalize, punish deviation, heresy, and misguidance of the followers of teaching. In monotheistic religions based on revealed Scriptures, religious authority involves more the power (opportunity, power, or right) to structure and determine the “authoritative” canon of texts and legal methods of interpretation. In short, the difference between authority and power becomes blurred because authority is closely related to the idea of legitimacy or power. In the same way, it is related to the concept of trust. Religious authority can be individuals, groups of people, or institutions.³⁴

Like Sunni Islam in many Islamic countries, Indonesia actually does not recognize a single authority. Islamic authority in Indonesia spreads in various layers, such as religious institutions, state institutions, and local figures. Religious institutions, such as Nahdlatul Ulama (NU), Muhammadiyah, and Persis, have independent fatwa institutions that can guide their members on various religious matters. Likewise, the Indonesian Ulama Council (MUI), through the Fatwa Commission, regularly issues some fatwas.³⁵

Hasyim noted that the authority of the text represented by the organization had been contested for quite a long time in Indonesia. Two groups are contesting this matter, namely traditionalist Muslim intellectuals represented by Nahdlatul Ulama (NU), al-Washliyah, and the Tarbiyah Islamiyah Association (Perti); as well as modernist Muslim ulamas represented by Muhammadiyah and Persis. Furthermore, in the reform era, various types of new interpretations of Islamic texts were offered by non-mainstream organizations, namely through Salafi-Wahabi learning, various transnational organizations, and Jama'ah Tabligh.³⁶

The development of the times and the creation of human works, especially in information and communication technology, has resulted in shifts, fragmentation, and contestation of religious authority. The main factor in the contestation between traditional and new religious authorities is the emergence of “new media”.³⁷ However, according to Zaman and Kiptiyah, the emergence

34 Jinan, “New Media And The Shifting Of Muslim Religious Authority In Contemporary Indonesia,” 190.

35 Rumadi, “Islam Dan Otoritas Keagamaan,” 41.

36 Syafiq Hasyim, “New Contestation in Intrepeting Religious Texts: Fatwa, Tafsir, And Shariah,” in *The New Santri: Challenges to Traditional Religious Authority in Indonesia*. Singapore (Singapore: ISEAS Yusuf Ishak Institute, 2020), 48-63.

37 See more Bryan S. Turner, “Religious Authority and the New Media,” *Sage Journals: Theory, Culture & Society* 24, no. 2 (2007): 283–304, <https://doi.org/10.1177/026327640707500>.

of a new religious authority did not replace the old or traditional religious authority. Religious authorities only adjust to the development of new religious authorities.³⁸

So far, religious authority has only belonged to ulamas, murshids, religious teachers, or ustaz. Religious authority is also in the government's firm grip through the Ministry of Religious Affairs and non-governmental organizations such as mass organizations (*ormas*). However, religious authority is now experiencing a shift to new media that looks impersonal and is based primarily on information networks (internet). Everyone can easily access knowledge according to their styles and needs. Someone who needs an answer to a problem does not have to meet ulama directly because conventional ulama no longer monopolizes religious fatwa products. Now, everyone can find answers and make decisions based on the information presented in the media.³⁹

The fact is that in discourse and social-religious life in Indonesia until now, the MUI is still a strong "religious authority". Historically, the MUI was formed as an institution that answered various socio-religious problems in Indonesia. In addition, the MUI is tasked with advising the government, especially on policies related to Muslim.⁴⁰ Concerning the Islamic economy in Indonesia, the MUI has a vital role in developing the Islamic economy. The role in developing the Islamic Economy is projected into three tactical roles. First, the role of standardization through fatwa; second, the role of supervision; third, the role of sharia business dispute resolution.⁴¹ In the context of sharia financial issues, apart from having to provide legitimacy through fatwas, MUI through DSN must provide guarantees through supervision on the implementation of activities of Islamic Financial Institutions (LKS) through the Sharia Supervisory Board appointed by DSN-MUI.⁴²

38 Muhammad Qasim Zaman, *Modern Islamic Thought in a Radical Age: Religious Authority and Internal Criticism* (Cambridge: Cambridge University Press, 2012), accessed June 16, 2022, <http://ebooks.cambridge.org/ref/id/CBO9780511973062>; Siti Mariatul Kiptiyah, "Ulama Jawa, Otoritas Agama, Dan Tafsir Al-Quran," in *In Islam Antara Teks, Kuasa Dan Identitas* (Yogyakarta: Arti Bumi Intara, 2018).

39 Jinan, "New Media And The Shifting Of Muslim Religious Authority In Contemporary Indonesia," 181–182.

40 Muhammad Maulana Hamzah, "Peran Dan Pengaruh Fatwa Mui Dalam Arus Transformasi Sosial Budaya Di Indonesia," *Millah: Journal of Religious Studies* XVII, num. 1 (Agustus 2017): 130–131, <https://doi.org/10.20885/millah.vol17.iss1.art7>.

41 Akhmad Faozan, "Optimalisasi Peran Dewan Pengawas Syariah Pada Lembaga Keuangan Syariah," *El-Jizya* 2, no. 1 (2014): 25, <http://doi.org/10.24090/ej.v2i1.2014.pp23-40>. Also read Decision of the National Sharia Council of the Indonesian Ulema Council Num. 03/2000, Regarding the Implementation Guidelines for Determining Sharia Supervisory Board Members in Islamic Financial Institutions.

42 See More Muhamad Nadratuzaman, Et. al., Hosen, *Bank-Ku Syariah* (Jakarta: Pekaes Publishing, 2008), 10.

In general, the existence of MUI in religious discourse, especially those related to Islamic law in Indonesia, is vital. MUI has proven to be the most authoritative Islamic institution in issuing fatwas related to socio-religious matters.⁴³ MUI is increasingly showing its existence in sharia economics when it issues Decree No. 754/MUI/II/1999 concerning the National Sharia Council (DSN), which is in charge of overseeing the entire Sharia Supervisory Board (DPS) or Islamic Financial Institutions (LKS) in Indonesia.⁴⁴ Even though it is only a fatwa, DSN-MUI decisions, especially those related to LKS, are always binding and must be obeyed by Islamic financial institutions based on Law No. 21 of 2008 concerning Islamic Banking.⁴⁵

References for the Establishment of MUI Religious Authority

In the previous sub-chapter, the author explained the MUI as an agent for forming religious authority. The author needs to emphasize here that an authority-forming agent will only be able to carry out its role with text references as legitimacy. As a *Samawi* religion, references to establish this authority come from holy books and other supporting texts. This is where the role of the Quran, Sunnah, Fiqh principles, and the opinions of the ulama play a role as a reference for forming religious authority.

The Quran and Sunnah are not only sources of moral guidance but also as normative textual evidence that regulates human activity in all areas of life, and knowing the intent of the texts of these two sources in the form of knowledge based on a high level of intellect requires the particular expertise. The figures that emerged early in Islam were the “religious authority holders” class. In the next generation, the ulamas emerged as the heirs of the prophets who were claimed to be entitled, on the religious knowledge they had acquired, to interpret the primary texts of the Quran and al-Sunnah and to compile their authoritative texts. Ulamas have received considerable attention, and until now, there have been various types of ulamas and jurists with background expertise who have good reputations in

43 Syafiq Hasyim, “The Council of Indonesian Ulama (Majelis Ulama Indonesia, MUI) and Religious Freedom,” *Research Institute on Contemporary Southeast Asia (IRASEC)* 12 (Desember 2011): 8, <https://www.irasec.com/The-Council-of-Indonesian-Ulama>.

44 Sofiyah, “Analisis Efektifitas Keputusan DSN-MUI Num. 3 Tahun 2000 Berkaitan Dengan Dewan Pengawas Syariah Di Baitul Mal Wa Tamwil (BMT) Studi Kasus Di BMT Bima Magelang,” *Jurnal Muqtasid* 3, no. 1 (2012): 134, <https://doi.org/10.18326/muqtasid.v3i1.133-153>.

45 Muhammad Rifqi Hidayat and Kamarudin Parman, “The Implementation of Fatwa Issued by Sharia National Board Number 108 Year 2016 On Sharia Tourism And Halal Tourism Product at PT Rizma Tour & Travel Banjarmasin,” *AKADEMIKA: Jurnal Pemikiran Islam* 24, num. 2 (2019): 233, <https://e-journal.metrouniv.ac.id/index.php/akademika/article/view/1777/1384>.

their respective communities or societies.⁴⁶

The opinion of ulamas in various fields of science is a secondary reference in the formation of religious authority. The opinion of these ulamas is recorded in their works (books). The works of past ulamas in the field of Islam in Indonesia are commonly called as *Kitab Kuning* (the yellow book). The yellow book is the principal and authoritative reference for the Islamic Boarding School. It is considered the “final formulation” of the Quran and Sunnah.⁴⁷ These books were written or compiled by pre-17th century salaf ulamas. The yellow book is a means of transmitting knowledge and has been a world reference for Islamic Boarding Schools for about 15 centuries. Martin van Bruinessen noted that the titles of the yellow book circulating among Javanese and Madurese Islamic Boarding School reached 900 titles at the end of the 20th century. According to Steenbrink, almost all of the books used in Islamic Boarding Schools come from the Middle Ages of the Islamic world. In previous studies, namely at the end of the 19th century, L.W.C. van den Berg found only 54 titles of the yellow books.⁴⁸

The yellow book is a pivotal tool in the process of religious understanding of *tafaqquh fi al-din* for the community, especially the ulamas. It reflects the religious thought that was born and developed throughout the history of Islamic civilization. Maintenance and enrichment of the yellow book must remain its main feature to make the Islamic Boarding School remain a center for Islamic studies.⁴⁹ This is crucial because the work of the ulama becomes the MUI’s reference in establishing religious authority, which in this study discusses sharia economics.

Basically, there is no explicit statement about “Sharia economics” or “Islamic economics” in the primary texts, the Quran and Sunnah. These two primary sources of sharia only allude to general principles related to muamalat. Then, these general principles were interpreted and developed by the Prophet, companions, tabi’in, tabi’ tabi’in, and ulamas. When discussing a sharia-based economy, it does not directly return to these two sources. There is a *sanad* of knowledge or at least a path that must be followed, namely ulamas studies on sharia related to muamalat, which are contained in the books of interpretation, hadith, syarah hadith, and especially in the books of Fiqh. This is the second reference in establishing religious

⁴⁶ Krämer, *Speaking for Islam: Religious Authorities in Muslim Societies*, 100:6.

⁴⁷ Indra Syah Putra and Diyan Yusr, “Pesantren Dan Kitab Kuning,” *Al-Ikhtibar: Jurnal Ilmu Pendidikan* 6, no. 2 (2019): 652, <https://doi.org/10.32505/ikhtibar.v6i2.605>.

⁴⁸ Siswanto, “Tradisi Pembelajaran Baca Kitab Kuning Di Pondok Pesantren,” *Jurnal Ulumul Quran* 11, no. 1 (2018): 76, <https://ejournal.insud.ac.id/index.php/UQ/article/view/7>.

⁴⁹ Sunedi, “Kitab Kuning Dan Tradisi Intelektual Di Pesantren” (Presented at the Konferensi Nasional IV Asosiasi Program Pascasarjana Perguruan Tinggi Muhammadiyah (APPPTM), Palembang: Asosiasi Program Pascasarjana Perguruan Tinggi Muhammadiyah se-Indonesia, 2016), 42.

authority by the MUI through the DSN fatwa. The DSN-MUI is considered to have authority in regulating sharia law.⁵⁰ The DSN fatwas, apart from referring to the Quran,⁵¹ Sunnah,⁵² also refer to the principles of *fiqhiyyah*⁵³ and authoritative books in the field of Fiqh muamalat compiled by ulamas. That is, the primary references in establishing religious authority are the Quran and Sunnah, which are then strengthened by secondary references, the opinions of the ulamas.

Ulama's Opinion as a Secondary Reference for the Establishment of the Fatwa Text Authority

The DSN-MUI fatwa, which uses primary and secondary references as described above, has become an authoritative text in Indonesia's Islamic economics field. The DSN-MUI fatwa serves as a reference for regulations issued by Bank Indonesia, both related to substance, material, and sharia economic practices in sharia financial institutions.⁵⁴ The DSN-MUI issued various fatwas to optimize the role in developing the Islamic economy in Indonesia. The DSN-MUI fatwa is not only a reference for LKS operations but also a reference for related parties in resolving disputes in sharia business.⁵⁵

50 Hijrah Saputra, Andriansyah Syihabuddin, and Adhika Prasetya, eds., *Himpunan Fatwa Keuangan Syariah Dewan Syariah Nasional MUI* (Jakarta: Erlangga, 2014), 9.

51 The most extended verse in the Koran is the verse related to muamalat: Ch. al-Baqarah, verse 282. This is one of the proofs that muamalat is a significant part of Islam because it is related to needs that are in accordance with human nature.

52 Al-Sunnah related to muamalat is not only al-Sunnah al-Qauliyyah, but also al-Sunnah al-Fi'liyyah as the rahn carried out by Prophet Muhammad PBUH when buying food. Muhammad bin Ismail Abu Abdullah Al-Bukhari, *Sahih Al-Bukhari* (Digital Library, al-Maktabah al-Syamilah al-Isdar al-Tsani, 2005), VIII/285 hadith number 2252; Muslim bin al-Hajjaj Abu al-H}asan al-Qusyairi al-Nisaburi, *Sahih Muslim* (Digital Library, al-Maktabah al-Syamilah al-Isdr al-Tsani, 2005), III/1226 hadith number 1603. al-Sunnah al-Taqririyyah, economic practices carried out by the Prophet's companions and received the approval of Prophet Muhammad PBUH.

53 See Aidil Novia, "Kontribusi Fiqh Legal Maxim dalam Fatwa-Fatwa Ekonomi Syariah Dewan Syariah Nasional Majelis Ulama Indonesia (DSN-MUI)," *TSAQAFAH* 12, num. 1 (May 14, 2016): 79, accessed February 11, 2019, <http://ejournal.unida.gontor.ac.id/index.php/tsaqafah/article/view/369>; Baca juga Imam Mustofa, "Analisis Penggunaan Kaidah Al-Hajah Qad Tunazzalu Manzilah al-Darurah Dalam Fatwa Dewan Syariah Majelis Ulama Indonesia," *Analisis: Jurnal Studi Keislaman* 18, num. 2 (March 1, 2019): 1–26, accessed January 11, 2021, <http://ejournal.radenintan.ac.id/index.php/analisis/article/view/3425>.

54 Maskufa, "Penyelesaian Sengketa Perjanjian Syariah Pada Lembaga Keuangan Syariah," *Al-Iqtisad Journal of Islamic Economics* 5, num. 1 (January 2013): 127, <http://dx.doi.org/10.15408/aiq.v5i1.2559>.

55 Jaih Mubarak and Hasanudin, "Dinamika Fatwa Produk Keuangan Syariah," *Ijtihad, Jurnal Wacana Hukum Islam dan Kemanusiaan* 13, no. 1 (June 2013): 1, <https://doi.org/10.18326/ijtihad.v13i1.1-14>.

The existence and role of the DSN-MUI in the development of Islamic economics in Indonesia are more focused on standardizing the legal side of Islamic economics in LKS operations.⁵⁶ Specifically related to sharia economics and finance, fatwas are overseen by the National Sharia Council. In 2000-2012 period, DSN-MUI has at least stipulated and issued 122 fatwas relating to Islamic finance and published them in PDF format on the <https://dsnemui.or.id> page. In addition, many books on the compilation of the DSN-MUI fatwa have been published by national book publishers for public publication in order to introduce Islamic economics and sharia society's economy. One of the popular books containing DSN fatwas is the book Sharia Financial Fatwa Association of the MUI National Sharia Council, published by Erlangga Publisher. This book contains various fatwas related to Islamic finance, which total up to 87 fatwas.⁵⁷

The DSN-MUI fatwa contains several points. One of the essential points in the fatwa is the preamble, which consists of: first, considering, contains the background reasons and the urgency of issuing a fatwa. Second, bearing in mind, contains the basics of law (*Adlillat al-Abkam*). Third, observing, accommodate the opinions of meeting participants, ulamas, opinions of experts, and matters that support the determination of fatwas. The second and third points of this preamble deserve attention. The second point, *Adillat al-Abkam*, consists of the arguments for quoting verses from the Quran, Hadith or Sunnah, then *ijma'* (if there is *ijma'* related to the issue to be fatwa), and lastly is the rule of Fiqh.

The third point is the part which contains the opinion of the ulamas or experts regarding the object that will become a fatwa. In this section, the DSN-MUI fatwa cites various views of the ulama. Based on the author's search, of the 122 DSN-MUI fatwas compiled in the DSN-MUI fatwa collection book from 2000 to 2012, there are at least 47 fatwas or around 38.5% of the total which refer to the opinions of salaf and contemporary ulamas as the basis for fatwa, or at least as an argument and legitimacy. The fatwas referring to the salaf and modern books are presented in Table 1.

Table 1. MUI Fatwa

Num.	Fatwa	Number/Year	Book Reference
	Giro	NUM: 01/DSN-MUI/IV/2000	Wahbah al-Zuhaili, <i>al-Fiqh al-Islami wa Adillatub</i> , 4/838
	Savings	NUM: 02/DSN-MUI/IV/2000	Wahbah al-Zuhaili, <i>al-Fiqh al-Islami wa Adillatub</i> , 4/838

56 Nur Hidayah, "Fatwa-Fatwa Dewan Syariah Nasional Atas Aspek Hukum Islam Perbankan Syariah Di Indonesia," *AL-ADALAH* X, num. 1 (January 2011): 15, <https://doi.org/10.24042/adalah.v13i3.231>.

57 See Hijrah Saputra, Andriansyah Syihabuddin, and Adhika Prasetya, eds., *Himpunan Fatwa Keuangan Syariah Dewan Syariah Nasional MUI* (Jakarta: Erlangga, 2014).

Deposit	NUM: 03/DSN-MUI/IV/2000	Wahbah al-Zuhaili, <i>al-Fiqh al-Islami wa Adillatub</i> , 4/838
Murabahah	NUM: 04/DSN-MUI/IV/2000	Ibn Rusyd, <i>Bidayab al-Mujtabid</i> , 2/161; al-Kasani, <i>Badai' al-Sanai'</i> , 5/220-222
Stock Trading	NUM: 05/DSN-MUI/IV/2000	Wahbah al-Zuhaili, <i>al-Fiqh al-Islami wa Adillatub</i> , 4/598
Mudharabah Financing (Qiradh)	NUM: 07/DSN-MUI/IV/2000	Wahbah al-Zuhaili, <i>al-Fiqh al-Islami wa Adillatub</i> , 4/838
Letter of Credit (L/C) for Sharia Import	NUM: 34/DSN-MUI/XI/2002	Wahbah al-Zuhaili, <i>al-Fiqh al-Islami wa Adillatub</i> , 5/4058 dan 3771
Letter of Credit (L/C) for Islamic Exports	NUM: 35/DSN-MUI/XI/2002	Wahbah al-Zuhaili, <i>al-Fiqh al-Islami wa Adillatub</i> , 5/4058
Wadiah Certificate of Bank Indonesia (SWBI)	NUM: 36/DSN-MUI/X/2002	Ibnu Qudamah, <i>al-Mughni</i> , 6/382; al-Sarakhsi, <i>al-Mabsut</i> , 11/109 dan Wahbah al-Zuhaili, <i>al-Fiqh al-Islami wa Adillatub</i> , 5/4018
Interbank Mudharabah Investment Certificate (Ima Certificate)	NUM: 38/DSN-MUI/X/2002	Ibnu Qudamah, <i>al-Mughni</i> , 5/56
Sharia Charge Card	NUM: 42/DSN-MUI/X/2004	al-Dimyati, <i>Tanab al-Thalibin</i> , 3/77-78; al-Syarbini, <i>Mughni al-Mubtaji</i> , 2/201-202; al-Sayyazi, <i>al-Mubadzdzab</i> , 1/394; <i>Fiqh al-Sunnab</i> ;
Compensation (Ta'widh)	NUM: 43/DSN-MUI/VIII/2004	Ibnu Qudamah, <i>al-Mughni</i> , 6/591; Wahbah al-Zuhaili, <i>al-Fiqh al-Islami wa Adillatub</i> , 4/87-96
Multiservice Financing	NUM: 44/DSN-MUI/VIII/2004	Al-Dimyati, <i>Tanab al-Thalibin</i> , 3/77-78; al-Syarbini, <i>Mughni al-Mubtaji</i> , 2/201-202; <i>al-Mubadzdzab</i> , 1/394
Mudharabah Musyarakah Agreement	NUM: 50/DSN-MUI/III/2006	Wahbah al-Zuhaili, <i>al-Fiqh al-Islami wa Adillatub</i> , 5/3925
Sharia Card	NUM: 54/DSN-MUI/X/2006	Hisyam, <i>al-Sirab al-Nabawiyah</i> , 1/141; Muhammad 'Abdul Mun'im Abu Zayd, <i>Nabwa Tatbiri al-Mudharabah fi al-Masbarif al-Islamiyyah</i> , 411
Letter of Credit (L/C) With Kafalah bil Ujrah Contract	NUM: 57/DSN-MUI/V/2007	'Athiyah Shaqar, <i>Absan al-Kalam fi al-Fatwa wa Abkam</i> , 5/542-543
Hawalah bil Ujrah	NUM: 58/DSN-MUI/V/2007	'Athiyah Shaqar, <i>Absan al-Kalam fi al-Fatwa wa Abkam</i> , 5/542-543
Settlement of Receivables in Exports	NUM: 60/DSN-MUI/V/2007	Ibnu Qudamah, <i>al-Mughni</i> , 6/468; Imam al-Syawkani, <i>Nayl al-Autbar</i> , 4/527

Ju'alah contract	NUM: 62/DSN-MUI/XII/2007	Ibnu Qudamah, <i>al-Mughni</i> , 8/323; al-Nawawi, <i>al-Majmu' Syarb al-Mubadzdzab</i> , 15/449; 6/468; <i>Hasyiyah al-Bajuri</i> , 2/24
Sale And Lease Back	NUM: 71/DSN-MUI/VI/2008	al-Syayrazi, <i>al-Mubadzdzab</i> , 1/394; Ibnu Qudamah, <i>al-Mughni</i> , 8/7-113; al-Nawawi, <i>al-Majmu' Syarb al-Mubadzdzab</i> , 15/308; al-Syarbini, <i>Mughni al-Mubtaj</i> , 2/332; Al-Dimyati, <i>Tanab al-Thalibin</i> , 3/108;
Musarakah Mutanaqishah	NUM: 73/DSN-MUI/XI/2008	Ibnu Qudamah, <i>al-Mughni</i> , 5/5 dan 173; al-Susi, <i>Syarb Fatb al-Qadir</i> , 6/153; Ibn 'Abidin, <i>Radd al-Mukhtar</i> , 3/365; Wahbah al-Zuhaili, <i>al-Mu'amalat al-Maliyah al-Mu'asirah</i> , 436-437 Kamal Taufiq Muhammad Hathab <i>Jurnal Dirasab Iqtisadiyyah Islamiyyah</i> , 10/Vol. 2, 48; Nuruddib Abdul Karim al-Kawamillah, <i>al-Musarakah al-Mutanaqishah al-Mu'asirah</i> , 133
Non-Cash Gold Trading	NUM: 77/DSN-MUI/V/2010	Ali Jum'ah, <i>al-Kalim al-Thayyib Fatawa al-'Asbriyyah</i> , 136; Wahbah al-Zuhaili, <i>al-Mu'amalat al-Maliyah al-Mu'asirah</i> , 133; Abdullah bin Sulayman al-Mami', <i>Bubuth fi al-Iqtisad al-Islami</i> , 178 dan 322; Khalid Mushlih, <i>Hukm Bay' al-Dzabah bi al-Nuqud bi al-Taqsith</i> , Ibn al-Qayyim al-Jawziyah, <i>Ilam al-Munawqqi'in</i> , 2/247' Abd al-Hamid al-Jibali, <i>Bay' al-Dzabah bi al-Taqsith</i> ; Muhammad Qawas Qal'ah ji, <i>al-Mu'amalat al-Maliyah al-Mu'asirahfi Dhaw' al-Fiqh wa al-Tayri</i> , 23
Mechanisms and Instruments in the Interbank Money Market Based on Sharia Principles	NUM: 78/DSN-MUI/IX/2010	al-Dimyati al-Bakri, <i>Hasyiyah Tanab al-Thalibin</i> , 3/256; Ibnu Qudamah, <i>al-Mughni</i> , 5/56 dan 8/323
Qardh by Using Customer Funds	NUM: 79/DSN-MUI/III/2011	Wahbah al-Zuhaili, <i>al-Fiqh al-Islami wa Adillatub</i> , 5/3937
Prizes in Fundraising for Islamic Financial Institutions	NUM: 86/DSN-MUI/XII/2012	'Abdul Halim 'Uways. <i>Mansu'ab al-Fiqh al-Islami al-Mu'asir</i> , 95-99; 'Ala al-Din Zafari, <i>Fiqh al-Mu'amalat al-Maliyah al-Muqarin: Shiyagbab Ja'adab wa Amtbilab Mu'asirah</i> , 244-246
Methods in Setting Income and Profit Equalization Reserve in Revenue Sharing by Third Parties	NUM: 87/DSN-MUI/XII/2012	<i>al-Ma'ayir al-Syar'iyah</i> , 3/15/14; Wahbah al-Zuhail, <i>al-Fiqh al-Islami wa Adillatub</i> , 5/3939

Haji Insurance	NUM: 39/DSN-MUI/X/2002	Wahbah al-Zuhaili, <i>al-Fiqh al-Islami wa Adillatub</i> , 5/3416; Husayn Hamid Hasan, <i>Hukm al-Syari'ah al-Islamiyyah fi 'Uqud al-Ta'min</i>
Mudharabah Musytarakah Contract in Sharia Insurance	NUM: 51/DSN-MUI/III/2006	Ibnu Qudamah, <i>al-Mughni</i> , 6/348; Wahbah al-Zuhaili, <i>al-Mu'amalat al-Maliyah al-Mu'asbirah</i> , 107
Wakalah bil Ujrah Contract in Sharia Insurance and Sharia Reinsurance	NUM: 52/DSN-MUI/III/2006	Ibnu Qudamah, <i>al-Mughni</i> , 6/468; al-Syawkani, <i>Nayl al-Autbar</i> , 4/527; Wahbah al-Zuhaili, <i>al-Mu'amalat al-Maliyah al-Mu'asbirah</i> , 89; Wahbah al-Zuhaili, <i>al-Fiqh al-Islami wa Adillatub</i> , 5/4058; Ibnu Qudamah, <i>al-Mughni</i> , 6/470
Tabarru Contract on Sharia Insurance	NUM: 53/DSN-MUI/III/2006	Wahbah al-Zuhaili, <i>al-Mu'amalat al-Maliyah al-Mu'asbirah</i> , 287; Mushthafa al-Zarqa, <i>Nizham al-Ta'min</i> , 58-59; Amad Sa ¹ Syarf al-Din, 244-247; al-Sa'di Abi Jayb, <i>al-Ta'min Byn al-Hazbr wa al-Ibabab</i> , 53
Sharia Bonds (Shukuk) Mudharabah	NUM: 33/DSN-MUI/IX/2002	al-Syarbini, <i>Mughni al-Mubtaj</i> , 2/319; Ibnu Qudamah, <i>al-Mughni</i> , 5/57 dan 179; al-Kasani, <i>Badai' al-Shanai'</i> , 8/3655; Wahbah al-Zuhaili, <i>al-Fiqh al-Islami wa Adillatub</i> , 5/3944; Muhammad 'Abdul Mun'im Abu Zayd, <i>Nabwa Tatbir al-Mudharabah fi al-Masbarif al-Islamiyyah</i> , 127 ¹
Capital Market and General Guidelines for the Application of Sharia Principles in the Capital Market Sector	NUM: 40/DSN-MUI/X/2002	Ibnu Qudamah, <i>al-Mughni</i> , 5/173; Wahbah al-Zuhaili, <i>al-Fiqh al-Islami wa Adillatub</i> , 3/1841 dan 4/881; Muhammad 'Abdul 'Affar al-Syarif, <i>Bubuts Fiqhiyyah Mu'asbirah</i> , 78-79; Muhammad Yusuf Musa, <i>al-Islam wa Musykilatuna al-Hadhirah</i> , 58; Muhammad Rawas Qal'ahji, <i>al-Mu'amalat al-Maliyah al-Mu'asbirah fi Dhan'i al-Fiqh wa al-Syari'ah</i> , 56; 'Umar bin 'Abdul 'Aziz al-Matrak, <i>al-Riba wa al-Mu'amalat al-Masbrafiyyah</i> , 369-375; al-Nawawi, <i>al-Majmu' Syarb al-Mubadzdzab</i> , 9/265
Sharia Bonds (Shukuk): Ijarah	NUM: 41/DSN-MUI/III/2004	al-Syayrazi, <i>al-Mubadzdzab</i> , 394; Ibnu Qudamah, <i>al-Mughni</i> , 5/137, 8/7, 54, 56, dan 113; al-Nawawi, <i>al-Majmu' Syarb al-Mubadzdzab</i> , 15/308 dan 383; al-Syarbini, <i>Mughni al-Mubtaj</i> , 2/332; al-Dimyati al-Bakri, <i>Hasyiyah 'Anab al-Tbalibin</i> , 3/9 dan 108; Sayyid Sabiq, <i>Fiqh al-Sunnah</i> , 3/208; Wahbah al-Zuhaili, <i>al-Fiqh al-Islami wa Adillatub</i> , 5/3842 dan 4049; 'Ali Muhyiddin 'Ali Qarahdaghi, <i>Ushul fi al-Iqtishad al-Islami</i> , 352-353; Mundzir Qahf, <i>Mu'alajah al-'Ajz fi al-Mizaniyyah al-'Ammah fi al-Nizham al-Islami</i> , 14 dan 16

Sharia Bonds (Shukuk): Convertible Mudharabah	NUM: 59/DSN-MUI/V/2007	al-Syarbini, <i>Mughni al-Mubtaji</i> , 2/319; Ibnu Qudamah, <i>al-Mughni</i> , 5/57 dan 179; al-Kasani, <i>Badai' al-Sanai'</i> , 8/3655; Wahbah al-Zuhaili, <i>al-Fiqh al-Islami wa Adillatub</i> , 5/3944; Muhammad 'Abdul Mun'im Abu Zayd, <i>Nabwa Tathwir al-Mudharabah fi al-Masbarif al-Fiqhiyyah</i> , 127
Sharia Rights Issue	NUM: 65/DSN-MUI/III/2008	Muhammad 'Abdul Gaffar al-Syarif, <i>Bubuts Fiqhiyyah Mu'asbirah</i> , 78-79; Muhammad Yusuf Musa, <i>al-Islam wa Musykilatuna al-Hadhirah</i> , 58; Muhammad Rawas Qal'ahji, <i>al-Mu'amalat al-Maliyah al-Mu'asbirah fi Dbaw'i al-Fiqh wa al-Syari'ah</i> , 1; <i>al-Majmu' Syarb al-Mubadzdzab</i> , 9/265; Wahbah al-Zuhaili, <i>al-Fiqh al-Islami wa Adillatub</i> , 4/881 dan 2878; Ma'ayir al-Syar'iyah, 12; Wahbah al-Zuhaili, <i>al-Mu'amalat al-Maliyah al-Mu'asbirah</i> , 511; Taqi Uthmani, <i>Bubuth Qadbaya Fiqhiyyah Mu'asbirah</i> , 248
Sharia Warrants	NUM: 66/DSN-MUI/III/2008	Muhammad 'Abdul Gaffar al-Syarif, <i>Bubuts Fiqhiyyah Mu'asbirah</i> , 78-79; Muhammad Yusuf Musa, <i>al-Islam wa Musykilatuna al-Hadhirah</i> , 58; Muhammad Rawas Qal'ahji, <i>al-Mu'amalat al-Maliyah al-Mu'asbirah fi Dbaw'i al-Fiqh wa al-Syari'ah</i> , 56; Umar bin 'Abdul 'Aziz al-Matrak, <i>al-Riba wa al-Mu'amalat al-Masbrafiyyah</i> , 369-375; <i>al-Majmu' Syarb al-Mubadzdzab</i> , 9/265; Wahbah al-Zuhaili, <i>al-Fiqh al-Islami wa Adillatub</i> , 4/881 dan 2878; Ma'ayir al-Syar'iyah, 12; Wahbah al-Zuhaili, <i>al-Mu'amalat al-Maliyah al-Mu'asbirah</i> , 511; Taqi Uthmani, <i>Bubuth Qadbaya Fiqhiyyah Mu'asbirah</i> , 248
State Sharia Securities	NUM: 69/DSN-MUI/VI/2008	Mundzir Qahf, <i>Mu'alajah al-'Ajj fi al-Mizaniyyah al-'Ammah</i> 1; <i>al-Nizham al-Islami</i> , 60-92
State Sharia Securities Issuance Method	NUM: 70/DSN-MUI/VI/2008	Mundzir Qahf, <i>Mu'alajah al-'Ajj fi al-Mizaniyyah al-'Ammah</i> fi <i>al-Nizham al-Islami</i> , 60-92
State Sharia Securities: Ijarah Sale and Lease Back	NUM: 72/DSN-MUI/VI/2008	al-Syayrazi, <i>al-Mubadzdzab</i> , 394; Ibnu Qudamah, <i>al-Mughni</i> , 8/7, dan 113; al-Nawawi, <i>al-Majmu' Syarb al-Mubadzdzab</i> , 15/308; <i>Mughni al-Mubtaji</i> , 2/332; <i>Hasyiyah l'anan al-Thalibin</i> , 3/108; Ibn Nujaym, <i>al-Aybah wa al-Nzhair</i> , 124; Walid Khalid al-Sayyiji, <i>al-Madkhal ila al-Maliyah al-'Ammah al-Islamiyyah</i> , 201-202; Ibn 'Abidin, <i>Radd al-Mukhtar</i> , 6/298
State Sharia Securities: Ijarah Asset to Be Leased	NUM: 76/DSN-MUI/VI/2010	Ibn Nujaym, <i>al-Aybah wa al-Nzhair</i> , 124; Walid Khalid al-Sayyiji, <i>al-Madkhal ila al-Maliyah al-'Ammah al-Islamiyyah</i> , 201-202; Ibn 'Abidin, <i>Radd al-Mukhtar</i> , 6/298; al-Syayrazi, <i>al-Mubadzdzab</i> , 394; Ibnu Qudamah, <i>al-Mughni</i> , 8/7 dan 113; al-Nawawi, <i>al-Majmu' Syarb al-Mubadzdzab</i> , 15/308; <i>Mughni al-Mubtaji</i> , 2/332; <i>Hasyiyah l'anan al-Thalibin</i> , 3/108; <i>al-Ma'ayir al-Syar'iyah</i> , 5/1/2, 5/1/4 dan 5/2/5

Application of Sharia Principles in Equity-Type Securities Trading Mechanisms in the Stock Exchange Regular Market	NUM: 80/DSN-MUI/III/2007	al-Dimyati al-Bakri, <i>Hasyiyah Tanab al-Talibin</i> , 3/256; Ibnu Qudamah, <i>al-Mughni</i> , 5/51, 5/56 dan 6/468 dan 1470; al-Syawkani, <i>Nayl al-Anthar</i> , 4/527; Wahbah al-Zuhaili, <i>al-Fiqh al-Islami wa Adillatub</i> , 5/4058
Rahn	NUM: 25/DSN-MUI/III/2002	Ibnu Qudamah, <i>al-Mughni</i> , 4/367; al-Syarbini, <i>Mughni al-Mubtaj</i> , 2/131
Sharia Factoring	NUM: 67/DSN-MUI/III/2008	Ibnu Qudamah, <i>al-Mughni</i> , 6/468; al-Syawkani, <i>Nayl al-Anthar</i> , 4/527; <i>Takmilah Fath al-Qadir</i> , 6/2; Wahbah al-Zuhaili, <i>al-Fiqh al-Islami wa Adillatub</i> , 5/4058
Sharia Guarantor	NUM: 74/DSN-MUI/I/2009	al-Dimyati, <i>Tanab al-Talibin</i> , 3/77-78; al-Syarbini, <i>Mughni al-Mubtaj</i> , 3/202; Sayyid Sabiq, <i>Fiqh al-Sunnah</i> , 4/221-222; 'Athiyah Shaqar, <i>Absan al-Kalam fi al-Fatwa wa Abkam</i> , 5/542-543
Methods of Taking Profits at At-Tamwil bil Murabahah (Murabaha Financing) in Islamic Financial Institutions	NUM: 84/DSN-MUI/XII/2012	Wahbah al-Zuhaili, <i>al-Fiqh al-Islami wa Adillatub</i> , 4/3084; <i>al-Mawsi'ab al-Fiqhiyyah al-Kuwaitiyyah</i> , 9/37; <i>al-Ma'ayir al-Syar'iyyah</i> , 47; Isham 'Abd al-Hadi Abu Nashr, <i>al-Mu'alajah al-Mubasabiyyah li 'Amaliyat al-Bay' bi al-Taqsih. Mubasabah fi Dba Abkam al-Fiqh al-Islami</i> , 9/11
Sharia Tiered Direct Sales (PLBS) in Umrah Travel Services	NUM: 83/DSN-MUI/VI/2012	Ibnu Qudamah, <i>al-Mughni</i> , 3/323; al-Syayrazi, <i>al-Mubadzdzab</i> , 394; al-Nawawi, <i>al-Majmu' Syarb al-Mubadzdzab</i> , 15/449; <i>Hasyiyah al-Bajuri</i> , 2/24; <i>al-Ma'ayir al-Syar'iyyah</i> , 5/1/6, 5/2/2 dan 8/2/1
Commodity Trading Based on Sharia Principles on the Commodity Exchange	NUM: 82/DSN-MUI/VIII/2011	Ibnu Qudamah, <i>al-Mughni</i> , 5/51 dan 6/468; al-Syawkani, <i>Nayl al-Anthar</i> , 4/527; al-Mirdawi, <i>al-Inshaf fi Ma'rifa al-Rajib min al-Khilaf</i> , 4/338; Ibn Humam, <i>Fath al-Qadir Syarb al-Hidayah</i> , 7/213; <i>al-Ma'ayir al-Syar'iyyah</i> , 413

Source: Salaf and Contemporary Books

The DSN-MUI fatwa quotes many opinions of Salaf ulamas, such as Ibn Qudamah, al-Syarbini, Ibnu 'Abidin, Imam al-Nawawi, al-Syayrazi, and several other ulamas. Meanwhile, the opinion of contemporary ulamas, such as Wahbah al-Zuhaili. Mundzir Qahf, Musthafa al-Zarqa, Muhammad 'Abdul Ghaffar al-Syarif, Isham 'Abd al-Hadi Abu Nashr, and several other ulamas are also cited. The book of Salaf ulamas that is most often cited in DSN-MUI fatwas is the book

of al-Mughni, by Ibn Qudamah. This could be that Ibnu Qudamah's opinion is more flexible in matters of muamalat. While from the work of contemporary ulamas is the book *al-Fiqh al-Islami wa Adillatuh*, the work of Wahbah al-Zuhaili. The content of this book is quite comprehensive in discussing various issues. In addition, this book is more contextual in terms of muamalat because it was written at a time when the social development of society and technological progress was quite advanced.

Taking interpretation from the opinions of the ulamas above is undoubtedly related to the flexibility and contextuality of those opinions to answer various contemporary muamalat questions. The DSN-MUI fatwa above should be placed in the position of an answer to various problems of muamalat jurisprudence in the contemporary era. The fatwas are seen as *ijtihad* that produces contemporary muamalat jurisprudence that departs from evidence and spirit to uphold moral norms and guidelines related to sharia economic law. The norms and morality are then standardized in a binding legal rule that applies to develop sharia finance and service products in the modern era.

The existence of quotes from the opinion of the ulama in the DSN-MUI fatwa shows a process of reproduction of legitimacy and authority in religion through secondary references. The process by which the authority of texts in the past is brought into the present context through new fatwas. The text of the ulama's opinion is issued to provide answers to problems in Islamic law, both as anticipatory answers and as a response to problems that have arisen. The text is quoted as legitimacy to answer muamalat questions that the DSN-MUI faces to find answers. Even though the DSN-MUI has quoted verses from the Quran and hadith of the Prophet Muhammad SAW and *fihiyyah* principles, the DSN-MUI seems to need to convince its "constituents" by quoting the opinions of ulamas who are considered more qualified as additional legitimacy. This is part of *ijtihad*, which is basically very reasonable as a step in utilizing contemporary *ijtihad* media. Al-Suyuthi states, "*Compared to the early period, Ijtihad is easier these days due to the easy access and close distance of media from hadith for the references. The early period was way difficult because the ijtihad media was out of reach.*"⁵⁸

This legitimacy of the ulama's opinion strengthens Qosim Zaman's thesis, which states that, however, the identity and authority of ulama lies, more than anything else, in the ongoing engagement with the Islamic religion which is articulated historically and especially in the legal tradition;⁵⁹ and the authority and

58 Imam al-Suyuthi, *Taqrir Al-Istinad Fi Tafsir al-Ijtihad* (Digital Library, al-Maktabah al-Syamillah al-Isdar al-Sani, 2005), I/3.

59 Muhammad Qasim Zaman, "Consensus and Religious Authority in Modern Islam: The Discourses

coherence of these traditions themselves depend on the belief that they represent earlier generations that are connected to the Prophet. In Khaled Abou el Fadl's notes, the legal concept of authority has become a part that is firmly entrenched in Islamic dogma. As far as Islamic law is concerned, the legal paradigms and categories dominate all normative discourse on Islamic orthodoxy.⁶⁰ The works of ulama, which are contained in various books, acknowledged or not, have become the third source of "text authority" after the Al-Quran and al-Sunnah. This is inseparable from their existence as the heirs of the Prophet.

It must be admitted that authority in religious texts is vital to avoid being religious relatively or subjectively. However, using the text as a medium for carrying out strict interpretations that cover up the truth from other parties who also interpret the text is not justified. Religion needs standardization by competent parties to explore the text's authority and offer it to the public to be guided and followed.⁶¹

The crucial issue regarding Islamic law and modernity is related to the existence of "dualism of authority" from lawmakers. On the one hand, Islamic law originates from the holy book; however, on the other hand, it needs legitimacy from the state so that it has binding legal force. This happens in family law and Sharia economic law, which also happens in Indonesia. It is natural, then, that Hallaq describes this as a "paradox" because, in contemporary Islamic thought, there is an apparent dislocation between two perceptions of legal authority, one originating from the state and the other from elsewhere. This second source of authority had been the dominant, even unchallenged, conception for more than a millennium, while the perception of state-governed authority only emerged during the 19th and 20th centuries. The dislocation between the two sources of authority sums up the legal (if not cultural and social) schism that occurred with the introduction of the so-called "modern reforms".⁶²

However, Hallaq emphasizes that the codification of Islamic law by adopting secular law has eroded the sacredness of Islamic law in the sense of Sharia. Hallaq emphasized that the transposition of legal orders from the hands of the faqih (traditional law professionals) to the hands of the state is an essential phenomenon

of The 'Ulamà," in *Speaking For Islam: Social, Economic and Political Studies of The Middle East and Asia*, vol. 100 (Leiden: Brill, 2006), 155-156.

60 Khaled Abou El-Fadl, *Speaking in God's Name: Islamic Law, Authority and Women* (Oxford: Oneworld, 2005), 74.

61 Abou El-Fadl, *Speaking in God's Name*.

62 Wael B Hallaq, "Juristic Authority vs. State Power: The Legal Crises of Modern Islam," *Journal of Law and Religion* 9, num. 1 (2004): 243, <https://doi.org/10.2307/3649176>.

in modern legal reform. Knowledge of the law is their authority, and knowledge implies, does presuppose, hermeneutical engagement with religious texts without which no law can be understood.⁶³ Hallaq further states that Islamic law in the sense of “traditional fiqh” has completely changed. Among the most dominant causes is the influence of “legal colonialism,” as stated by Layish. Layish notes that countries whose culture is closed off from Western civilization are slow to experience legal reform. For example, the government of Saudi Arabia, which was supported by Wahhabism, a puritan revivalist movement in the late 18th century. They had never experienced colonial rule, and the Wahabi movement regards first-century Islam as a model to emulate. However, Saudi Arabia is currently trying to adapt Islamic law to current conditions because its intense contact with the West has heavily influenced it.⁶⁴

Conclusion

Based on the findings and analysis in this study, the legitimacy and authority of religion are at least based on two main things, the agent forming authority and references forming authority. In Indonesia, the DSN-MUI is an agent for forming the authority of sharia economic law. While the references used by the DSN-MUI are the Quran, Sunnah, Ijma', and the opinions of the ulamas. When the DSN-MUI refers to the opinion of the ulama, basically, there has been a reproduction of the authority of the text. This study reinforces Abou El-Fadl's view that the legitimacy and authority of texts in Islamic law originate from the law itself, considering that texts are just rows of letters that cannot function without being “activate” by dialogue and interpretation from competent experts. Text is an inanimate object with no authority in any field, especially religion. It needs a figure who masters various fields of knowledge so that the text has the meaning of authority. Philosophy, linguistics, history, sociology, hermeneutics, and other sciences are needed as tools to understand the text and find the right message from the maker and owner of the text. This is where the role of ulama emerges as an agent in forming the authority of religious texts.

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