

THE DEVELOPMENT OF SHARIA ECONOMIC LAW THROUGH THE PROCESS OF IJTIHAD: A LITERATURE STUDY ON THE INFLUENCE OF NATIONAL REGULATIONS AND SHARIA PRINCIPLES IN ECONOMIC ACTIVITIES IN INDONESIA

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Abstract

This study examines the development of Islamic economic law in Indonesia through the process of *ijtihad*, with a focus on the influence of national regulations and Sharia principles in economic activities. Using a literature review method, this study examines various sources, including national regulations, fatwas from the National Sharia Council of the Indonesian Ulema Council, and rulings from Religious Courts related to Islamic economic law. The findings reveal that national regulations serve as the legal foundation providing certainty and protection for sharia economic actors, while the *ijtihad* process acts as a dynamic instrument enabling the adaptation of sharia law to economic developments and innovations in sharia financial products. The synergy between regulations and *ijtihad* forms a responsive, inclusive, and sustainable legal framework for sharia economics, thereby supporting Indonesia's position as a global centre for sharia economics.

Keywords: Islamic economic law, *ijtihad*, national regulations, DSN MUI fatwas, Islamic economic development, Indonesia.

Introduction

The development of Islamic economics in Indonesia has shown significant dynamics in recent decades, reflecting the growing need for an economic system based on Islamic principles. Indonesia, as the country with the largest Muslim population in the world, has great potential to develop various Islamic economic instruments, ranging from banking, capital markets, to halal industries. However, the success of Islamic economics does not solely depend on economic aspects but is closely intertwined with the existence of a legal system that provides legitimacy, protection, and legal certainty for Islamic economic actors.

Sharia economic law is part of Islamic law that focuses on rules and governance of economic activities in accordance with sharia principles. This law serves as a normative framework that regulates all aspects of economic transactions and activities to be in accordance with the values of justice, prohibition of usury, *gharar* (uncertainty), and halal activities. As a law formed based on the primary sources of Islam, namely the Qur'an, Hadith, and *ijtihad* of scholars, Islamic economic law presents an economic system that is not only based on efficiency and profit but also considers morality and ethics (Fariana, 2017).

The process of *ijtihad* plays a crucial role in the development of Islamic economic law, especially in the modern era where economic challenges and situations are becoming increasingly complex and dynamic. *Ijtihad* is the diligent effort of scholars or experts to uncover new rules relevant to contemporary situations, when classical religious texts do not explicitly address a particular circumstance (Barlinti, 2012) . Through *ijtihad*, Islamic economic law can continue to evolve without abandoning the fundamental teachings of Islam, thereby providing practical and contextual legal solutions to contemporary economic issues (Supriyanto & Aulia, 2021) .

The role of *ijtihad* becomes increasingly important in the Indonesian context due to the rapidly evolving nature of Islamic economics, which involves various financial products and innovations previously absent from classical Islamic tradition. For example, Islamic derivative instruments or *sukuk* as an alternative to conventional bonds have become important financing tools. *Ijtihad* also contributes to aligning Islamic laws with national regulations while meeting the needs of an increasingly educated and critical Muslim community regarding the *halal* and fair aspects of transactions (Mahargiyantie, 2020) . Additionally, national regulations serve as the foundation and formal legal framework affirming the existence of Islamic economic law in Indonesia. The presence of these regulations is necessary to bridge the gap between religious law, which is normative in nature, and the state legal system, which must ensure legal certainty for all citizens. Indonesia has a number of regulations such as the Islamic Banking Law, the Islamic Capital Market Law, and other related regulations that provide legitimacy and comprehensively regulate Islamic economic governance (Mudzhar, 2001) .

National regulations governing Islamic economic law in Indonesia do not solely rely on positive state laws but also accommodate the normative values and principles of *Sharia*. The synergy between national regulations and Islamic legal principles through *ijtihad* is a key characteristic of the dynamic development of Islamic economic law in Indonesia. Thus, the process of law formation in this field is not merely the adoption of positive law but a hybrid legal approach that provides space for religious interpretation while ensuring formal legal certainty (Bachtiar, 2018) . However, in practice, there are various challenges in integrating national regulations with *sharia* principles, especially in the context of applying Islamic economic law, which involves various stakeholders, including the government, business actors, the community, and religious institutions. Sometimes there are misunderstandings or differing interpretations regarding the implementation of *Sharia* rules and official regulations, necessitating adaptive and innovative *ijtihad* mechanisms to bridge these gaps (Ardani, 2024) .

In the context of globalisation and global economic competition, the development of Indonesia's *Sharia* economic law based on *ijtihad* and national regulations serves as a model that can be adapted in countries with significant Muslim populations. *Sharia* economic law that is responsive to changes in the times and remains committed to *sharia* principles is a strength in providing an alternative economic system that is socially just and inclusive (Gayo & Taufik, 2012) .

This research framework also opens up space for further study on the role of institutions and organisations that assist the *ijtihad* process in Islamic economic law, including fatwa institutions and religious courts that play a strategic role in producing legal interpretations capable of resolving Islamic economic issues appropriately. An interdisciplinary approach between law, economics, and religion is essential for formulating applicable and widely accepted solutions to Islamic economic law.

Finally, this study is expected to provide significant intellectual contributions to the development of Islamic economic law in Indonesia, as well as provide input for regulators and practitioners in the field to ensure that the development of Islamic economic law remains dynamic and based on *ijtihad* that is in line with the national context and the principles of Sharia.

Research Method

The research method used in this study is library research with a qualitative descriptive approach. This study collects, reviews, and analyses various relevant literature sources such as books, journal articles, national legislation documents, fatwas from the National Sharia Council of the Indonesian Ulema Council (DSN MUI), and academic studies related to Islamic economic law and the *ijtihad* process in the Indonesian context. The analysis techniques applied focus on a deep understanding of the relationship between national regulations and Sharia principles and how both contribute to the development of Islamic economic law through the process of *ijtihad*. Thus, this study aims to provide a comprehensive overview of the dynamics of Islamic economic law in Indonesia from a theoretical and practical perspective based on available literature (Cronin et al., 2008).

Results and Discussion

The Influence of National Regulations on the Development of Islamic Economic Law in Indonesia

National regulations play a vital role in shaping, directing, and accelerating the growth of the Islamic economy sector in Indonesia. In recent decades, the introduction of various regulations such as the Islamic Banking Law, the Sukuk Law, and supporting regulations has signified the state's commitment to providing a solid formal legal foundation for Islamic economic actors in the country (Chapra, 2000). The placement of regulations as the main pillar distinguishes Indonesia's Islamic economy from many other countries that only rely on a normative approach based on religion. The existence of regulations has become a key factor enabling the integration of Islamic principles into the national economic system. These regulations accommodate the needs of Muslims in conducting economic transactions in accordance with religious teachings while providing legal certainty for all stakeholders. This is reflected in the formal recognition of Islamic financial institutions and Islamic products, which are now clearly regulated within the national legal framework (Jaelani, 2025).

National regulations—through the Bank of Indonesia, the Financial Services Authority (OJK), the National Sharia Council (DSN), and relevant ministries—serve as catalysts in creating a transparent, fair, and inclusive Islamic economic ecosystem. These regulations not only ensure compliance with sharia principles but also address the demands for good governance and consumer protection. With a clear legal framework, the Islamic financial sector, including banks and non-bank financial institutions, has grown rapidly and expanded throughout Indonesia (Trinita, 2025) .

One of the main impacts of national regulations is the establishment of operational foundations for Islamic financial institutions. Regulations provide permits, conditions, and procedures for the establishment of Islamic banks, BMTs, Islamic cooperatives, and Islamic microfinance funds. Not only that, regulations on Islamic products—such as murabahah, mudharabah, ijarah, and sukuk—also provide a standard framework for business actors in managing transactions, thereby enhancing public confidence in Islamic finance (Mudzhar, 1993) .

National regulations also strengthen synergy between sharia economic activities at the central and regional levels. With the issuance of policies such as the National Committee for Sharia Economics and Finance (KNEKS) along with KDEKS at the provincial and district levels, the government seeks to ensure that sharia economic policies and development are implemented evenly and sustainably. This synergy is crucial in supporting Indonesia's vision to become a global centre for Islamic economy and halal industry (Syafriada & Aminah, 2015) .

The emergence of new regulations in the field of Islamic economics is driven by the need to establish a system that can compete with conventional systems while remaining firmly rooted in Islamic principles. As the conventional financial sector has become established, Islamic institutions face the challenge of creating the same, if not greater, appeal and trust. Regulations help reduce disparities by setting rules and providing incentives and guarantees for customers and Islamic business operators to feel safe and protected (Maulida & Aisyah, 2024) . Beyond legal protection and certainty, regulations also serve as a catalyst for innovation in Islamic economic products and services. Adaptive regulations provide room for experimentation and the introduction of new products in the Islamic finance industry—such as Islamic fintech financing, Islamic insurance, and Islamic capital market instruments. The presence of progressive regulations is a key driver for the emergence of innovative products needed by modern society (Bangsawan, 2017) .

The development of Islamic economic regulations in Indonesia is inseparable from the dynamics of political law and public policy that are responsive to the needs of the people. Since the reform era, the state has gradually affirmed its accommodation of demands for the development of the Islamic economy, not only by providing a formal legal framework but also by responding to social and economic changes in Indonesian Muslim society (Abdullah & Wijaya, 2019) . As a result, there has been an acceleration in the formulation of laws and regulations relevant to the Islamic economy. However, behind the rapid development of Islamic economic regulations, substantial challenges remain. One of

these is that regulations are sometimes formalistic, not fully harmonised or integrated between central and regional rules, and even between one institution and another. Regulatory disharmony sometimes creates uncertainty at the implementation level and makes business actors hesitant to take initiatives based on sharia (Mubarok & Hasanudin, 2013).

Another common issue is the incomplete accommodation of sharia principles in positive state regulations. When differences in interpretation or legal gaps arise in sharia economic practices, state legal procedures often fail to provide swift and effective solutions. Therefore, it is important to review or reconstruct regulations to make them more responsive and relevant to the dynamics of contemporary Islamic economics (Mukri et al., 2022). In addition to harmonising regulations, efforts to supervise and protect consumers need to be emphasised in the development of Islamic economic regulations. Supervisory institutions such as the OJK and BI are not only responsible for ensuring compliance of Islamic institutions with governance and risk management standards but must also serve as the frontline in protecting customer rights. With effective oversight, Islamic economic practices can prevent deviations from Sharia objectives and business ethics (Hidayah, 2022).

Regulations have encouraged transparency and public education about Islamic financial products. Increased public understanding is essential to expand inclusion and participation in the Islamic economic system. The government is also actively promoting education and awareness through regulations that require contract transparency, disclosure of risk information, and a national Islamic financial literacy programme (Antonio, 2001).

One positive outcome of regulation is the growing confidence of domestic and international investors in Indonesia's Islamic financial market. This creates a multiplier effect in the form of increased investment, job creation, and the expansion of Islamic financial services to remote areas that previously had limited access to banking services. Regulation provides certainty for investors to invest capital without doubting the legal and operational validity of Islamic institutions (Dewi, 2004).

Nevertheless, the implementation of Islamic economic regulations must continue to be critically reviewed and improved to remain adaptive to the evolving dynamics of the macroeconomy, technology, and global trends. For example, the digitalisation of the economy requires adjustments to regulations on data protection, electronic transactions, and oversight of Islamic fintech to ensure they remain within the framework of Islamic principles and national law (Armiadi, 2008). In addition to national regulations, the enforcement of Islamic economic law is also supported by the role of judges in Religious Courts and fatwas from the DSN MUI, which serve as substantive references in dispute resolution or the development of new products. The relationship between formal regulations and Sharia provisions in fatwas is an important combination in Indonesia's adaptive and progressive Islamic economic law model (Rahman, 2023).

Finally, the influence of the combination of progressive national regulations and dynamic Shariah principles constitutes a unique Indonesian model in the development of Shariah economic law. This model has driven the growth of Shariah financial institutions, strengthened consumer protection, expanded financial inclusion, and served as a reference for other countries seeking to build a robust, inclusive, and innovative Shariah economic legal system.

Thus, it can be concluded that national regulations play a fundamental and strategic role in building and developing the Islamic economic law ecosystem in Indonesia. Although there are a number of challenges in terms of harmonisation, implementation, and innovation, regulatory developments supported by the government's commitment to " ", stakeholder synergy, and adaptation to the needs of the times are key factors in the success of the national Islamic economy.

The Ijtihad Process as a Dynamic Instrument in the Development of Islamic Economic Law

The process of ijtihad is a primary mechanism in the development of Islamic economic law that is dynamic and adaptive to changing times. In the Indonesian context, ijtihad has become an important instrument for responding to increasingly complex and diverse economic activities, as primary sources of law such as the Qur'an and Hadith do not explicitly regulate all contemporary phenomena. Therefore, ijtihad functions as an intellectual effort undertaken by Islamic scholars and legal experts to explore and establish new legal rules that align with sharia principles yet remain relevant to contemporary conditions.

In Indonesia, ijtihad in the field of Islamic economics is often manifested through the issuance of fatwas by the National Sharia Council of the Indonesian Ulema Council (DSN MUI). These fatwas serve as guidelines and references for Islamic economic actors and Islamic financial institutions in carrying out activities in accordance with Islamic principles. DSN MUI fatwas are numerous and cover various aspects of the economy, ranging from banking, insurance, to capital markets. The existence of these fatwas is crucial as a concrete form of ijtihad implementation, serving to fill legal gaps and address the needs of modern Islamic finance (Sulistiyo, 2023) .

In addition to fatwas issued collectively by the DSN MUI, judges at Religious Courts in Indonesia also engage in the process of ijtihad through judicial rulings to resolve Islamic economic disputes. Religious Courts have special authority to handle cases in the field of Islamic economics based on Law No. 3 of 2006 and the Islamic Banking Law, so that these court rulings also serve as legal products containing elements of ijtihad by the judges who apply them. This demonstrates that the process of ijtihad does not only occur in the realm of fatwas but also in the realm of Islamic courts.

The role of judges in ijtihad implies that the legal decisions they make not only represent the institutional authority of the state court but also serve as an adaptation of Islamic law to the evolving socio-economic context. Such judicial decisions often become precedents or jurisprudence that can be referenced in similar cases in the future. Thus, the

ijtihad carried out by judges is not merely a temporary solution but also contributes to the systematic and sustainable development of Islamic economic law .

Ijtihad in the context of Islamic economic law also embodies the values of flexibility and innovation. When new financial products emerge or unforeseen economic phenomena occur, Islamic legal scholars must be able to conduct in-depth studies and legal interpretations that support such innovations, provided they do not contradict Islamic principles. This makes ijtihad a dynamic instrument that continuously adapts Islamic economic law to the ever-changing reality. .

Fatwas issued by the DSN MUI, as the result of collective ijtihad, undoubtedly hold significant authority in guiding the Islamic economy industry. However, in practice, there are still challenges regarding the binding nature of these fatwas. Fatwas issued by the DSN MUI are not legally binding, so their implementation and compliance depend heavily on the awareness and commitment of Islamic economic actors and financial institutions. Therefore, the enforcement of fatwas as products of ijtihad requires strong institutional support and regulations to ensure consistent implementation (Fariana, 2017) .

The ijtihad process also demands high expertise and competence from those involved in ijtihad, both in terms of religious understanding, legal knowledge, and modern economic dynamics. In Indonesia, the DSN MUI and related institutions rely on credible teams of sharia experts to conduct in-depth studies on sharia economic issues. This is important so that the results of ijtihad in the form of fatwas are truly accurate, comprehensive, and applicable, so as not to cause controversy or legal uncertainty in the future (Barlinti, 2012) . Additionally, the importance of the ijtihad process in Islamic economic law is evident in its role in addressing the challenges of globalisation and digitalisation of the economy, which have introduced new forms of transactions such as Islamic fintech, Islamic crowdfunding, and Islamic-based digital assets. Through ijtihad, Islamic economic law can provide valid and relevant guidance for business actors in leveraging the latest technologies while ensuring the halal and fair nature of such transactions (Mahargiyantie, 2020) .

In addressing issues not explicitly addressed by religious texts, ijtihad provides rational and systematic interpretative solutions. Through the study of primary texts (the Qur'an and Hadith) combined with the principles of *usul fiqh* and *maqasid shariah* (the objectives of shariah), scholars are able to produce laws that are appropriate to the contemporary context. This process also involves consultation and collective discussion, ensuring that the outcomes of ijtihad reflect a strong consensus within the Islamic scholarly community (Mudzhar, 1993) .

The role of ijtihad is highly strategic in addressing legal gaps and ambiguities in the practice of Islamic economics. This is crucial to ensuring that Islamic economic products and services are widely accepted and receive legitimacy from legal authorities. As a dynamic instrument, ijtihad is capable of bridging the gap between the continuity of sharia principles and the evolving needs of modern economics (Bachtiar, 2018) . Additionally, the role of ijtihad is closely tied to aspects of social justice and ethics in Islamic economics. The

law resulting from *ijtihad* is not only aimed at efficiency and profit, but also at ensuring social balance and preventing practices that are detrimental to others, such as usury, uncertainty, and exploitation. This shows that *ijtihad* serves as a means of harmonising legal, religious, and social aspects in economic activities (Ardani, 2024) .

The dynamics of *ijtihad* in Islamic economic law also require mechanisms for evaluation and periodic updates. As times and socio-economic conditions change, the results of *ijtihad* need to be updated to remain relevant and capable of addressing emerging issues. Therefore, institutions such as the DSN MUI actively review and revise old fatwas to align them with current developments. (Gayo & Taufik, 2012) .

Institutionally, the development of *ijtihad* in Indonesia is supported by the existence of official institutions such as the DSN MUI, which has the authority to issue Islamic economic fatwas. Additionally, religious courts serve as practical arenas for the application of *ijtihad* in resolving Islamic economic disputes. The synergy between the two creates a comprehensive and adaptive Islamic economic legal system (Chapra, 2000) . The readiness of religious courts to accept and use DSN MUI fatwas as a reference has increased, although there are still challenges in the field regarding the understanding and application of these fatwas. Education and training for religious court judges are important strategies to strengthen the quality of *ijtihad* in the legal domain, thereby producing rulings consistent with sharia principles (Jaelani, 2025) .

Finally, the process of *ijtihad* as a dynamic instrument in Islamic economic law serves as the primary foundation for the development of a responsive, innovative, and challenge-ready legal system. With the support of strong institutions, robust scientific capacity, and synergy between fatwas and court rulings, Indonesia's Islamic economic law continues to develop systematically and remain relevant to national needs while upholding the principles of Islamic teachings.

Conclusion

The development of Islamic economic law in Indonesia is the result of a dynamic synergy between national regulations and the process of *ijtihad* as an adaptive legal instrument. National regulations provide a formal legal framework that gives legitimacy, certainty, and protection to Islamic economic activities, thereby enabling the integration of Islamic principles into the national economic system in a more systematic manner. On the other hand, the process of *ijtihad* allows for the adaptation and innovation of Islamic economic law to changes and challenges of the times, particularly in addressing the complexities of modern economic products and practices that are not explicitly regulated by classical Islamic legal sources.

The process of *ijtihad*, whether through fatwas issued by the National Sharia Council (DSN MUI) or rulings by religious court judges, is a vital element in filling legal gaps and providing appropriate solutions to contemporary issues in Islamic economics. With the ability of *ijtihad* to translate Sharia principles into practical and modern contexts, Islamic economic law in Indonesia can continue to develop in a responsive, innovative, and

relevant manner. However, the effectiveness of this process must be supported by strong and harmonious regulations to ensure compliance and continuity in its implementation.

Overall, the influence of national regulations and the ongoing *ijtihad* process together form a solid foundation for the development of Islamic economic law in Indonesia. These two elements not only support the growth of the Islamic economy industry but also create a legal system that is inclusive, just, and consistent with Islamic values. Therefore, strengthening adaptive regulations and developing the capacity for *ijtihad* are strategic keys to addressing future challenges while strengthening Indonesia's position as a global and sustainable centre for the Islamic economy.

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