



## AN ANALYSIS OF FATWA NO. 141/DSN-MUI/VIII/2021 ON THE ESTABLISHMENT AND OPERATIONAL GOVERNANCE OF ISLAMIC COOPERATIVES: AN ISTIHSAN PERSPECTIVE

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### **Abstract:**

*This study examines Fatwa No. 141/DSN-MUI/VIII/2021 concerning the Guidelines for the Establishment and Operational Management of Islamic Cooperatives from the perspective of istihsan in Islamic jurisprudence. The study aims to analyze the normative framework and legal reasoning underlying the fatwa in regulating the institutional structure and operational governance of Islamic cooperatives in Indonesia. This research employs a qualitative approach using library research. The primary data sources include the Qur'an, Hadith, DSN-MUI fatwas, and classical Islamic jurisprudence literature, while secondary data sources consist of books, academic journals, and related documents on Islamic cooperatives and Islamic economic law. The findings indicate that Fatwa No. 141/DSN-MUI/VIII/2021 provides comprehensive guidelines for the establishment and operation of Islamic cooperatives through the implementation of sharia-based contractual mechanisms such as syirkah, mudharabah, wakalah, and ijarah. These mechanisms emphasize the principles of justice, transparency, cooperation, and the prohibition of riba, maysir, and gharar. From the perspective of istihsan, the cooperative model reflects a juristic preference that prioritizes public benefit (maslahah) and supports collective economic cooperation within Islamic legal principles. The study concludes that the fatwa strengthens the legal and institutional legitimacy of Islamic cooperatives while promoting ethical and sharia-compliant economic practices.*

**Keywords:** Guidelines for Establishment, Operational Management of Sharia Cooperatives, Istihsan

### **Abstrak :**

Penelitian ini mengkaji Fatwa No. 141/DSN-MUI/VIII/2021 tentang Pedoman Pendirian dan Operasional Koperasi Syariah dalam perspektif *istihsan* dalam hukum Islam. Penelitian ini bertujuan untuk menganalisis kerangka normatif dan argumentasi hukum yang terdapat dalam fatwa tersebut dalam mengatur kelembagaan serta tata kelola operasional koperasi syariah di Indonesia. Penelitian ini menggunakan pendekatan kualitatif dengan jenis penelitian kepustakaan. Sumber data primer dalam penelitian ini meliputi Al-Qur'an, Hadis, fatwa Dewan Syariah Nasional Majelis Ulama Indonesia (DSN-MUI), serta literatur klasik fikih muamalah. Sementara itu, sumber data sekunder meliputi buku, jurnal ilmiah, dan dokumen yang berkaitan dengan koperasi syariah dan hukum ekonomi Islam. Hasil penelitian menunjukkan bahwa Fatwa No. 141/DSN-MUI/VIII/2021 memberikan pedoman komprehensif mengenai pendirian dan operasional koperasi syariah melalui penerapan akad-akad syariah seperti *syirkah*, *mudharabah*, *wakalah*, dan *ijarah*. Mekanisme tersebut menekankan prinsip keadilan, transparansi, kerjasama, serta larangan terhadap praktik riba, maysir, dan gharar. Dalam perspektif *istihsan*, model koperasi dapat dipahami sebagai bentuk preferensi hukum yang mengutamakan kemaslahatan serta mendukung kerjasama ekonomi kolektif yang sejalan dengan prinsip-prinsip syariah. Penelitian ini menyimpulkan bahwa fatwa tersebut memperkuat legitimasi hukum dan kelembagaan koperasi syariah serta mendorong praktik ekonomi yang etis dan sesuai dengan prinsip syariah.

**Keywords:** Pedoman Pendirian, Operasional Koperasi Syariah, Istihsan.

## **INTRODUCTION**

The development of Islamic cooperatives in Indonesia has continued to increase in line with the growing public awareness of conducting business activities in accordance with Islamic principles. Islamic cooperatives represent one of the institutional forms of Islamic economic practices that aim to promote justice, cooperation, and equitable economic distribution among members. In recent years, Islamic economic institutions have experienced significant growth in Indonesia, supported by increasing public demand for financial institutions that operate based on sharia principles (Hasanuzzaman et al., 2016; Khan, 2015) aIn addition, the Indonesian government has also encouraged the development of Islamic cooperatives through regulatory frameworks and policies designed to strengthen the role of Islamic economic institutions in supporting community welfare.

Despite these developments, many Islamic cooperatives still face significant challenges in managing their operational activities. One of the main issues is the limited understanding of sharia principles among cooperative managers and members, which often leads to the improper implementation of Islamic financial practices. In addition, managerial weaknesses and ineffective governance structures frequently hinder the institutional development of Islamic cooperatives (Effendi & Fahlevi, 2019; Lestari, 2019). These challenges indicate that the sustainability of Islamic cooperatives depends not only on regulatory support but also on the ability of cooperative institutions to implement sharia-based management practices effectively.

Islamic cooperatives in Indonesia also encounter several structural problems, including the lack of trained human resources in Islamic cooperative management, insufficient institutional capacity, and relatively weak governance mechanisms. As a result, Islamic cooperatives often struggle to compete with conventional cooperatives in terms of business development and financial management (Priyanti & Khafid, 2016). These limitations highlight the need for clear institutional guidelines and legal frameworks that can support the sustainable development of Islamic cooperative institutions.

In response to these challenges, the National Sharia Council of the Indonesian Council of Ulama (DSN-MUI) issued Fatwa No. 141/DSN-MUI/VIII/2021 concerning the Guidelines for the Establishment and Operational Management of Islamic Cooperatives. This fatwa provides a comprehensive normative framework that regulates various aspects of Islamic cooperative institutions, including their establishment, governance structures, operational mechanisms, and dispute resolution procedures. The fatwa aims to strengthen institutional professionalism while ensuring that cooperative activities comply with Islamic legal principles (Salekhah & others, 2021).

The establishment and management of Islamic cooperatives are also

closely related to the broader development of the Islamic economic system. Islamic cooperatives differ from conventional cooperatives in that they emphasize compliance with sharia principles in all business activities. These institutions are expected to serve as alternative economic organizations that facilitate collective entrepreneurship while adhering to Islamic ethical and legal standards (Rokhman & Hidayah, 2017; Santoso, 2018). Furthermore, Islamic cooperatives reflect the principles of cooperation and partnership recognized in Islamic jurisprudence, particularly within the framework of *fiqh muamalah* (Suhendi, 2002)

Previous studies have examined various aspects of Islamic cooperatives, including institutional governance, economic empowerment, and cooperative performance. Effendi and Fahlevi (Effendi & Fahlevi, 2019) analyzed the implementation of sharia principles in Islamic cooperative management and highlighted the importance of strengthening institutional governance. Lestari (2019) discussed the development of Islamic cooperatives in Indonesia and emphasized the role of regulatory support in strengthening cooperative institutions. Other studies have also explored the role of Islamic cooperatives in supporting community economic empowerment and micro-enterprise development (Hasanuzzaman et al., 2016; Priyanti, A., & Khafid, 2016). Meanwhile, Rokhman and Hidayah (Rokhman & Hidayah, 2017) and Santoso (2018) examined the institutional and legal frameworks of Islamic cooperatives and highlighted the importance of aligning cooperative governance with Islamic legal principles.

However, although previous studies have explored the institutional and managerial aspects of Islamic cooperatives, there is still limited research that specifically analyzes Fatwa No. 141/DSN-MUI/VIII/2021 as a normative legal framework for regulating Islamic cooperative institutions. In particular, studies that examine this fatwa from the perspective of Islamic legal theory such as *istihsan* remain relatively scarce. The concept of *istihsan* plays an important role in Islamic legal reasoning, allowing scholars to prioritize public interest (*maslahah*) when strict analogical reasoning (*qiyas*) may lead to undesirable outcomes (Shidiq, 2011)

Therefore, this study aims to analyze Fatwa No. 141/DSN-MUI/VIII/2021 concerning the Guidelines for the Establishment and Operational Management of Islamic Cooperatives from the perspective of *istihsan* in Islamic jurisprudence. By examining the fatwa through the framework of Islamic legal theory, this research seeks to contribute to the academic discussion on the integration of Islamic legal reasoning with contemporary Islamic economic institutions and to provide a deeper understanding of the role of Islamic jurisprudence in shaping cooperative governance.

## RESEARCH METHOD

This study employs a qualitative research approach using library research. Library research refers to a research method that utilizes written

sources such as books, journals, and other literature as the primary data for analysis (Zed, 2014). The qualitative approach is used to understand and analyze the concepts, principles, and legal reasoning related to the implementation of Islamic cooperative guidelines based on the perspective of *istihsan* in Islamic law (Creswell, 2014)

This research does not involve a specific physical research location since it relies primarily on literature sources. The researcher acts as the main instrument in collecting, selecting, and analyzing relevant literature. The focus of this study is the analysis of Fatwa No. 141/DSN-MUI/VIII/2021 concerning the Guidelines for the Establishment and Operational Management of Islamic Cooperatives from the perspective of *istihsan*.

The data sources in this study consist of primary data and secondary data. The primary data sources include the Qur'an, Hadith, the Fatwa of the National Sharia Council of the Indonesian Council of Ulama (DSN-MUI), and classical Islamic jurisprudence texts related to Islamic economic principles and *istihsan*. Meanwhile, the secondary data sources consist of books, academic journals, Islamic literature, magazines, and online resources that discuss Islamic cooperatives, Islamic economic law, and the implementation of Fatwa No. 141/DSN-MUI/VIII/2021.

The techniques used to collect research data include documentation and literature review, in which the researcher collects and examines relevant literature sources related to Islamic cooperative regulations and Islamic legal reasoning. These sources are then categorized and analyzed to obtain a comprehensive understanding of the topic under study (Sugiyono, 2017)

The data analysis technique used in this research is descriptive-analytical analysis. This technique involves organizing, interpreting, and analyzing the collected data systematically in order to explain the principles contained in the DSN-MUI fatwa and their relevance to the concept of *istihsan* in Islamic jurisprudence. Through this approach, the researcher aims to provide a comprehensive interpretation of the fatwa and its implications for the establishment and operational management of Islamic cooperatives in Indonesia (Creswell, 2007).

## FINDINGS AND DISCUSSION

### **General Provisions of Islamic Cooperatives in Fatwa No. 141/DSN-MUI/VIII/2021**

The analysis of Fatwa No. 141/DSN-MUI/VIII/2021 concerning the Guidelines for the Establishment and Operational Management of Islamic Cooperatives indicates that the fatwa provides a conceptual foundation for the institutionalization of Islamic cooperatives in Indonesia. In this fatwa, cooperatives are defined as economic entities formed by individuals or cooperative legal entities that operate based on cooperative principles and aim to strengthen the people's economy through kinship-based cooperation (Dewan Syariah Nasional - Majelis Ulama Indonesia, 2021). This

definition reflects the integration of cooperative values with Islamic economic principles that emphasize justice, mutual cooperation, and shared prosperity.

From a theoretical perspective, the cooperative model aligns with Islamic economic objectives that prioritize social welfare (*maslahah*) and equitable distribution of economic resources. Cooperative principles such as voluntary membership, democratic governance, and collective economic participation reinforce the ethical foundations of Islamic economic institutions (Arifin & Wardhani, 2020). These principles encourage economic solidarity among members while preventing economic domination by a small group of individuals.

Furthermore, the fatwa emphasizes that Islamic cooperatives must operate in accordance with sharia principles, including the prohibition of *riba* (interest), *maysir* (gambling), *gharar* (excessive uncertainty), and unlawful activities. This requirement reflects the normative framework of Islamic economic law, which aims to establish fairness and transparency in financial transactions while protecting society from exploitative practices (Santoso, 2018). Therefore, the fatwa does not merely regulate institutional procedures but also functions as a moral and legal guideline for maintaining the integrity of Islamic cooperative practices.

### **Legal Provisions and Sharia Compliance**

The legal provisions contained in the fatwa stipulate that Islamic cooperatives may only be established and operated if they comply with the *dhawabith* (guidelines) and *hudud* (limits) determined by the DSN-MUI. These provisions function as a regulatory framework designed to ensure that cooperative activities remain consistent with Islamic legal norms.

From the perspective of Islamic economic governance, compliance with sharia principles represents a fundamental requirement for the legitimacy of Islamic financial institutions. Islamic cooperatives must therefore adopt operational mechanisms that ensure financial transactions are conducted in accordance with ethical and legal standards derived from Islamic teachings (Effendi & Fahlevi, 2019). This includes ensuring that financing schemes, investment activities, and profit distribution mechanisms do not involve prohibited elements such as interest-based transactions.

The application of these legal provisions also reflects the broader objective of Islamic law (*maqasid al-shariah*), particularly in protecting wealth (*hifz al-mal*) and promoting justice in economic relations. By enforcing clear legal boundaries, the fatwa seeks to create a regulatory environment that safeguards both cooperative members and the wider community from unethical financial practices.

### **Establishment of Islamic Cooperatives Based on Syirkah Contracts**

One of the significant findings in the fatwa is that the establishment of Islamic cooperatives is based on a *syirkah* contract between cooperative members. In Islamic jurisprudence, *syirkah* refers to a partnership

agreement in which two or more parties combine their capital, expertise, or labor to conduct business activities and share profits and losses according to mutually agreed terms.

The application of *syirkah* in cooperative institutions demonstrates a strong compatibility between cooperative structures and Islamic partnership principles. Both systems emphasize collective participation, risk sharing, and equitable profit distribution. According to (Hasanuzzaman, S., Abdul-Majid, M., & Kari, 2016), partnership-based economic models encourage economic inclusiveness and promote a more balanced distribution of financial benefits among participants.

Moreover, the requirement that Islamic cooperatives comply with national legal regulations reflects the principle of legal conformity within Islamic economic governance. Islamic cooperatives must therefore operate within a dual framework that combines state regulatory systems and sharia principles (Tjandradipura, 2019). This dual compliance ensures that Islamic cooperatives remain legally recognized institutions while maintaining adherence to Islamic ethical standards.

The freedom of cooperative members to determine the type of business activities and profit-sharing mechanisms also reflects the principle of contractual autonomy. Members collectively determine operational policies through mutual agreement, ensuring that decision-making processes remain participatory and democratic (Priyanti & Khafid, 2016). This participatory governance structure reinforces the cooperative identity as a community-based economic institution.

### **Institutional Structure and Contractual Mechanisms**

The institutional structure of Islamic cooperatives involves several contractual relationships that regulate the roles of cooperative members, management, and supervisory bodies. The fatwa identifies several types of contracts, including *mudharabah*, *wakalah*, *wakalah bi al-istitsmar*, and *ijarah*, which define the operational responsibilities of each institutional component.

The relationship between cooperative members and management can be structured through *mudharabah* contracts, where members provide capital and management acts as the entrepreneur responsible for managing the cooperative's business activities. In this arrangement, profits are shared based on pre-agreed ratios, while financial losses are borne by the capital providers unless caused by managerial negligence (Al-Qardhawi, 2004).

Meanwhile, supervisory mechanisms in Islamic cooperatives may operate under *wakalah* contracts, which authorize supervisors to represent cooperative members in monitoring management performance. This contractual arrangement ensures accountability and transparency in cooperative governance (Khan, 2015)

The presence of the Sharia Supervisory Board (DPS) further strengthens institutional oversight by ensuring that all cooperative activities

comply with Islamic legal principles. Through mechanisms such as *ijarah* contracts, professional services can be employed to ensure continuous sharia compliance within the cooperative system.

### **Dispute Resolution Mechanisms**

Fatwa No. 141/DSN-MUI/VIII/2021 also establishes mechanisms for resolving disputes within Islamic cooperatives. The primary approach recommended is *musyawarah mufakat*, which reflects the cooperative principle of collective deliberation and consensus-based decision-making.

*Musyawarah* is an important decision-making mechanism in Islamic governance, emphasizing dialogue, mutual respect, and collective responsibility. In cooperative institutions, this mechanism allows members to actively participate in resolving disputes and determining organizational policies (Efendi & Zainuddin, 2020). Such participatory processes strengthen the legitimacy of decisions and enhance member trust in cooperative governance.

If consensus cannot be achieved through deliberation, disputes may be resolved through formal institutions such as the National Sharia Arbitration Board (BASYARNAS) or the Religious Courts, which provide legally binding decisions based on Islamic legal principles (Sulaiman, 2016). These mechanisms ensure that disputes are resolved fairly while maintaining adherence to sharia norms.

### **Istihsan Perspective in Islamic Cooperative Practices**

From the perspective of Islamic legal theory, the concept of *istihsan* provides a methodological framework for interpreting cooperative practices within Islamic jurisprudence. *Istihsan* allows jurists to depart from strict analogical reasoning (*qiyas*) when such reasoning leads to outcomes that contradict public interest or cause harm.

Several classical jurists, including Imam Abu Hanifah and Imam Malik, recognized *istihsan* as a legitimate method of legal reasoning aimed at achieving greater social benefit. Through *istihsan*, legal rulings can be adapted to address complex socio-economic realities while maintaining alignment with the objectives of Islamic law.

The cooperative model can be interpreted through this framework because it facilitates economic cooperation and mutual assistance among members. Classical jurists also recognized the permissibility of partnership contracts such as *syirkah 'inan*, which involve joint capital contributions and profit-sharing agreements among partners.

Similarly, Hanafi jurists emphasized that partnership arrangements are permissible because they serve human economic needs and promote collective prosperity (Al-Hanafi, 1986). In this context, Islamic cooperatives represent a modern institutional form that embodies the cooperative spirit recognized in classical Islamic jurisprudence.

Thus, from the perspective of *istihsan*, the cooperative model can be

considered a legitimate economic institution because it promotes justice, cooperation, and public welfare, which are central objectives of Islamic law.

## CONCLUSION

This study examines Fatwa No. 141/DSN-MUI/VIII/2021 concerning the Guidelines for the Establishment and Operational Management of Islamic Cooperatives from the perspective of *istihsan* in Islamic jurisprudence. The findings show that the fatwa provides a normative framework for the institutional development of Islamic cooperatives in Indonesia by regulating fundamental aspects such as general provisions, legal requirements, establishment procedures, institutional structures, and dispute resolution mechanisms. These provisions emphasize that Islamic cooperatives must operate based on sharia principles by avoiding elements of *riba*, *maysir*, *gharar*, and other prohibited activities while promoting justice, transparency, and mutual cooperation among cooperative members.

The analysis also indicates that the operational structure of Islamic cooperatives reflects classical Islamic partnership concepts through the application of contracts such as *syirkah*, *mudharabah*, *wakalah*, and *ijarah*. These contractual mechanisms demonstrate that Islamic cooperatives function not only as economic institutions but also as ethical institutions that integrate cooperative values with Islamic legal norms. From the perspective of *istihsan*, the cooperative model can be considered compatible with the objectives of Islamic law (*maqasid al-shariah*), particularly in promoting public welfare (*maslahah*) and preventing harm (*mafsadah*). The principle of *istihsan* allows flexibility in legal reasoning to accommodate institutional forms that support collective economic cooperation and social benefit.

Therefore, the implementation of Fatwa No. 141/DSN-MUI/VIII/2021 strengthens the legitimacy and governance framework of Islamic cooperatives by providing clear guidance for establishing and managing cooperative institutions in accordance with Islamic legal principles. This study contributes to the understanding of how Islamic legal reasoning, particularly the concept of *istihsan*, can be applied in contemporary economic institutions such as Islamic cooperatives. Future research may further examine the practical implementation of this fatwa in various Islamic cooperative institutions and evaluate its impact on cooperative governance, member participation, and economic empowerment within Muslim communities.

## REFERENCES

- Al-Hanafi, A. al-D. al-K. (1986). *Bada'i' al-Shana'I* (2nd ed.). Dar al- Kutub al-Ilmiyah.
- Al-Qardhawi, Y. (2004). *Fiqh Al-Muamalat*. Darul Fikr.
- Arifin, A., & Wardhani, R. (2020). Analisis Perbandingan Koperasi Syariah dan Koperasi Konvensional (Studi Kasus pada Koperasi di Kabupaten Jember). *Jurnal Ekonomi Dan Bisnis*, 1(4), 47–64.
- Creswell, J. W. (2007). *Qualitative Inquiry And Research Design: Choosing Among Five Traditions*. Sage Publications.
- Creswell, J. W. (2014). *Research design: Qualitative, quantitative, and mixed methods approaches*.
- Dewan Syariah Nasional - Majelis Ulama Indonesia. (2021). *Fatwa No. 141/DSN-MUI/VIII/2021 tentang Pedoman Pendirian dan Operasional Koperasi Syariah*.  
<https://www.shariaknowledgecentre.id/id/.galleries/pdf/fatwa/others/141-Koperasi-Syariah.pdf>
- Efendi, N. M., & Zainuddin, Z. (2020). Musyawarah Mufakat dalam Pengambilan Keputusan Koperasi Berbasis Syariah. *Al-Iqtishad: Jurnal Ilmu Ekonomi Syariah*, 12(2), 225–244.
- Effendi, M., & Fahlevi, T. (2019). Penerapan Prinsip Syariah dalam Pengembangan Koperasi Syariah di Indonesia. *Jurnal Ilmiah Syariah*, 19(1), 71–88.
- Hasanuzzaman, S., Abdul-Majid, M., & Kari, F. (2016). Model Koperasi Islami Berdasarkan Prinsip Musyarakah dan Wakalah. *Jurnal Universitas King Abdul Aziz: Ekonomi Islam*, 2(29), 49–71.
- Hasanuzzaman, S., Abdul-Majid, M., & Kari, F. (2016). Model Koperasi Islami Berdasarkan Prinsip Musyarakah dan Wakalah. *Jurnal Universitas King Abdul Aziz: Ekonomi Islam*, 29(2), 49–71.
- Khan, M. F. (2015). *Islamic Banking in Pakistan: Shariah-Compliant Finance and the Quest to Make Pakistan More Islamic*. Routledge.
- Lestari, A. N. dan D. (2019). “Perkembangan Koperasi Syariah di Indonesia.” *Jurnal Riset Manajemen Bisnis Dan Ritel (JBRMR)*, 241-247,.
- Priyanti, A., & Khafid, M. (2016). Peran koperasi syariah dalam mewujudkan pemberdayaan masyarakat melalui usaha mikro. *Jurnal Ekonomi Islam, Perbankan Dan Keuangan*, 2(12), 157–174.
- Priyanti, A., & Khafid, M. (2016). Peran koperasi syariah dalam mewujudkan pemberdayaan masyarakat melalui usaha mikro. *Jurnal Ekonomi Islam, Perbankan Dan Keuangan*, 12(2), 157–174.
- Rokhman, A., & Hidayah, N. (2017). Model Bisnis Koperasi Berdasarkan Prinsip Syariah: Kajian Perbankan Perkreditan Rakyat di Indonesia. *Journal of Islamic Accounting and Business Research*, 236–253.
- Salekhah, S., & others. (2021). Implementation of Sharia Cooperative Guidelines in Indonesia. *Journal of Islamic Economic Studies*.
- Santoso, R. (2018). Pengelolaan Koperasi Syariah Dalam Perspektif Hukum

- Islam. *Jurnal Ius Quia Iustum*, 2(25), 211–233.
- Shidiq, S. (2011). *Ushul Fiqih*. Kencana.
- Sugiyono. (2017). *Metode Penelitian Kualitatif, Kuantitatif dan R\&D*. Alfabeta.
- Suhendi, H. (2002). *Fiqh Muamalah*. PT Raja Grafindo Persada.
- Sulaiman, N. A. (2016). Musyawarah Mufakat dalam Pengambilan Keputusan Organisasi Koperasi Syariah. *Al-Mudarris: Journal of Islamic Education*, 1(2), 95–108.
- Tjandradipura, M. (2019). Koperasi perusahaan dalam perspektif Islam: Sebuah tinjauan teori dan praktek. *Jurnal Ekonomi Islam, Perbankan Dan Keuangan*, 15(3), 447–459.
- Zed, M. (2014). *Metode Penelitian Kepustakaan*. Yayasan Pustaka Obor Indonesia.