

## CHAPTER TWO

### LITERATURE REVIEW

#### A. Baitul Maal wat Tamwil

##### 1. The Definition

The Islamic financial system in Indonesia is run by two types of financial institutions, namely financial bank institutions and non-bank institutions. Financial bank institution includes Islamic Commercial Banks, Sharia Business Units, and Sharia Society Financial Bank. Among Financial non-bank institutions are the Islamic capital market, sharia insurance, sharia pawnshops, and Baitul Maal wat Tamwil or BMT.

*Baitul Mal wat Tamwil* (BMT) is microfinance institutions operated on the principle of profit sharing then it grew into micro and small businesses in order to raise the degree and dignity and defend the interests of the poor.<sup>9</sup> *Baitul Maal wat Tamwil* was born as a bright spot for micro and medium enterprises. The problem which often faced by micro and medium entrepreneurs is limited capital ownership. BMT tries to provide solutions for micro, medium and lower class entrepreneurs who have capital difficulties. With the alternative banking systems for Muslims without violating the prohibition on Islamic law, the BMT in its operations offers financing products with the concept of profit sharing in cooperation

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<sup>9</sup> Article 39 Law No. 1 of 2013 of Micro Finance Institution

contracts using *mudharabah* and *musyarakah* contracts while in the concept of buying and selling it uses *Murabahah* contracts.<sup>10</sup>

*Baitul Maal wat Tamwil* is a financial institution with a sharia concept which was born as an option that combines the concept of *maal* and *tamwil* in one institutional activity. The concept of *maal* was born and became part of the life of Muslim communities in terms of collecting and distributing funds for *zakat*, *infaq* and *shadaqah* productively. While the concept of *tamwil* was born for productive business activities that are purely for profit with the middle to lower (micro) sectors. The presence of BMT to absorb the aspirations of the Muslim community in the midst of uneasiness in economic activities with the principle of usury, as well as supporting funding to develop small and medium business empowerment activities. The presence of Islamic microfinance institutions called *Baitul Maal wa Tamwil* (BMT) was felt to have brought financial benefits to the community, especially small communities that were not bankable and refused usury because they were oriented to the people's economy. The presence of Baitul Maal wat Tamwil, on the one hand, carry out sharia economic missions and on the other hand carry out the task of the populist economy by improving microeconomics, which is why the development of BMT is very rapid amidst the development of other conventional microfinance institutions.<sup>11</sup>

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<sup>10</sup> *Ibid*, page. 18

<sup>11</sup> Syarifudin Arif, 2011, *Manajemen Keuangan Syariah*, STAIN Tulungagung, page. 105

Basically, the *Baitul Maal Wa Tamwil* consists of two *Baitul Maal* and *Baitul Tamwil* institutions. First, *Baitul Maal* is a religious social oriented financial institution whose main business is to accommodate and distribute community assets in the form of *Zakat, Infaq, Shadaqah* (ZIS) based on the provisions set by the Qur'an and Sunnah Rasul. The second *Baitul Tamwil* is a financial institution whose main activities are collecting public funds in the form of savings or deposits and channelling it back to the community in the form of sharia-based financing through a mechanism that is prevalent in the banking world.

In terms of supervision of operational activities, BMT is supervised by the Sharia Supervisory Board. The main functions of Sharia Supervisory are as advisors, *fatwa* given to administrators and managers regarding matters related to sharia such as product designation.<sup>12</sup> Thus the product issued by the BMT should file the approval from the Sharia Supervisory Board first.

In addition, Sharia Supervisory Board has a function as a mediator between *Baitul Maal wa Tamwil* and the National Sharia Board or Provincial Sharia Supervisory Board. BMT thus should obey the decisions of the Sharia Supervisory Board of the Center for Micro Enterprise Incubation or PINBUK<sup>13</sup> (Pusat Inkubasi Bisnis Usaha Kecil), the

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<sup>12</sup> Muh. Ridwan, 2004, *Manajemen Baitul Maal wa Tamwil* (BMT), Yogyakarta: UII Press, page. 57

<sup>13</sup> PINBUK is Center for Micro Enterprise Incubation which was established on March 13, 1995 in Jakarta by Prof. Dr. B.J. Habibie General Chairman of ICMI (Association of Muslim Scholars in Indonesia), K.H. Hasan Basri (General Chairman of MUI) and Zainul Bahar Noor (President Director of Bank Muammalat Indonesia). PINBUK was established by developing a model of

provincial Sharia Management Board, and the district/city Sharia Supervisory Board and the BMT Sharia Supervisory Board. The Sharia Supervisory Board is part of the National Sharia Council. Therefore the National Sharia Council *fatwa* becomes a part of sharia supervision by Sharia Supervisory Board. The most authorized in formulating a *fatwa* concerning the sharia financial system is National Sharia Council or DSN. Whereas Sharia Supervisory Board or DPS only functions as the executor of the *fatwa*.<sup>14</sup>

Based on that understanding it can be concluded that BMT is a financial institution that is operated with a system that is in accordance with Islamic principle. BMT is an institution that runs two activities in an integrated manner, namely *Bait Al-Maal* (carrying out social activities and da'wah), and *Bait At-Tamwil* (conducting business activities).

#### a. Vision and Mission

Baitul Maal wat Tamwil has the vision to become a professional and trustworthy Islamic microfinance institution (with profit sharing system), which has an extensive network of three-quarters of micro and small businesses throughout Indonesia.<sup>15</sup> Thus BMT activities focus on the Small and Medium Enterprises sector which cannot be done to

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Microfinance Institutions-Baitul Maal wa Tamwil (LKM-BMT) as a strategy for community empowerment through the development of self-sufficiency and socio-economic institutions that can reach and serve more of their business units that are not accessible to public banks. History and background of the establishment of BMT.

<sup>14</sup> Article 15 of the AD / ART of Baitul Maal wat Tamwil

<sup>15</sup> Aziz, Moh. Ali. 2004. *Ilmu Dakwah Edisi Revisi*. Jakarta: Kencana, page. 32

banks. The mission of BMT is to develop a reliable, safe, transparent, and careful microfinance business.

b. Legal Status of Baitul Maal wat Tamwil

Law No 1 of 2013 on Microfinance Organization clearly confirms what is related to the regulation of the status of Baitul Maal wat Tamwil as Microfinance Institution. The legal status BMT can be classified into:

- 1) BMT with the legal status of the Cooperative. BMT with the form of cooperative in activities to collect funds from the public and also channelled funds to society. The activity refers to :
  - a) Law No. 25 of 1992 on Cooperative
  - b) The decision of the State Minister of Cooperatives and Small and Medium Enterprise No 91/Kep/M.KUKM/IX/2004 on the implementation guidelines of Cooperative business activities and Islamic Financial Services.
- 2) Presidential regulation of the Republic of Indonesia No. 9 of 2009 on financial institutions.
- 3) The BMT without a legal entity. In general, BMT will be established in the form of KSM (Kelompok Swadaya Masyarakat) or NGO (Non-Governmental Organization/LSM).
- 4) As the Microfinance Institutions, according to Law No. 1 of 2013 a Microfinance Institution is a financial institution that is specifically established to provide business development services and

community empowerment, through giving loan or financing of micro enterprises of customers and the public. It has the function as a small bank and finance consultant of its customer or it was established for non-profit purposes. Manager of savings, as well as the provision of consulting services business development that is not solely for profit.<sup>16</sup> In other words, it can be said that Microfinance is a financial sector activity raising funds and providing loans or financing micro scale with a simple procedure to the poor and/or low income.<sup>17</sup>

According to Article 1 regarding the Decision of Cooperatives and Small and Medium Enterprise Ministry of Republic of Indonesia No 91/Kep/M.KUKM/XI/2004, microfinance is regarding as the user deploys of Cooperative Business Activities of Islamic Financial Services. Islamic Financial Services Cooperatives is a Cooperative engaged in financing, investment, and savings sharing system (sharia) but there are some other Islamic Financial services.<sup>18</sup>

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<sup>16</sup> Article 1 of Law number 1 of 2013 on Microfinance Institution

<sup>17</sup> I Gde Kajeng Baskoro. "Lembaga Keuangan Mikro di Indonesia". *Jurnal Buletin Studi Ekonomi*, Vol.18 No. 2 (August 2013) page. 155

<sup>18</sup> Article 2 The Decision of The Minister of Cooperatives and Small and Medium Enterprises republic of Indonesia Number: 91/M.KUKM/XI/2004 concerning The Implementation Guidelines of Cooperative Business Activities of Islamic Financial Services

c. The Principle of Baitul Maal Wat Tamwil

The establishment of Baitul Maal wat Tamwil is based on salaam society, which is full of safety, peace and well-being. The basic principles of BMT are:

- 1) *Ahsan* (quality, best work), *ahsanu, amala* (satisfying all parties), and in accordance with the values of salaam (safety, peace and prosperity).
- 2) *Barokah*, meaning efficient, effective, network strengthening, transparency, openness, and full responsibility to the community.
- 3) *Spiritual communication (strengthening ruhiyah values).*
- 4) *Democratic, participatory and inclusive.*
- 5) *Social justice and gender equality, non-discriminatory.*
- 6) *Environmentally safe.*
- 7) *Be sensitive and wise to local knowledge and culture and cultural diversity.*
- 8) *Sustainability, empowering the community by increasing the capacity of themselves and local community institutions.*

d. The Characteristic, Role, Function, and the operational system of BMT (Baitul Maal wat Tamwil)

1) The Characteristic of BMT (Baitul Maal wat Tamwil)

BMT is open, independent, oriented to the development of savings and financing to support productive economic businesses

for customers and the social welfare of the surrounding community, especially micro-enterprises and the poor.

2) The Role of Baitul Maal wat Tamwil in society namely:

BMT is an institution that is not only business oriented but also social, and an institution that does not centralize wealth in a small number of people but an institution whose wealth consists of public funds equally and fairly. BMT is also a sharia financial institution which has the most number compared to other sharia financial institutions. In 2001 the number of registered BMTs was 2938 while the Business and Small Business Incubation Center (PINBUK) targeted 30,000 BMTs at the end of 2014.<sup>19</sup>

In addition to BMT it was a sharia microfinance institution that helped the community to own a business or has business development, BMT also has a role in society, namely: First, keep people away from non-sharia economic practices. It is needed so that people can understand the importance of carrying out economic activities that are in accordance with Sharia and not detrimental to each other. This activity can be carried out by conducting socialization to the community starting from conducting honest transaction training (evidence in transactions, not to cheat in the amount of the measure, etc. Second, Conduct training and funding for small businesses. BMT is active to find out

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<sup>19</sup> *Ibid*,



how the business development of the customers whether the merchandise/business is smooth or there are 11 obstacles. This can be done by mentoring and guidance which later when the customer experiences obstacles, BMT can help or provide solutions to the problem. Third, releasing the community from an attitude of dependence on loan sharks.

BMT must be better at serving the community or its customers who need money so that they do not go to moneylenders who can harm them and they are forced to leave for the reason that BMTs cannot at any time help the community in capital matters. Fourth, maintaining the economic justice of the community with equitable distribution. BMT must be flat towards the community, this can be done by means of evaluation in the framework of mapping priority scale such as financing about a customer who is worthy or not in giving money as his business capital.<sup>20</sup>

### 3) The Function of BMT (Baitul Maal wat Tamwil)

- a) Improving the quality of human resources of customers, administrators and managers to become more professional, secure and trustworthy so that they are more intact and resilient in struggling and trying (to worship) to face global challenges.

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<sup>20</sup>Nendra Nugraha, "BMT, Sejauh Mana Manfaatnya bagi Ekonomi Ummat?" available on <http://www.ansor-lamongan.com/kolom/read/4/bmt--sejauh-mana-manfaatnya-bagi-ekonomi-ummat> , accessed on November 17<sup>th</sup> 2018 7.51 pm

- b) Organizing and mobilizing funds so that funds owned by the community can be utilized optimally within and outside the organization for the benefit of the people.
  - c) Developing employment opportunities.
  - d) Strengthening and improving the quality of business and market products of customers.
  - e) Strengthening and improving the quality of many economic and social institutions.
- e. The operational system of Baitul Maal wat Tamwil increasing the economics of society.

In general, the existence of *Baitul Maal wat Tamwil* as an institution supporting the economic activities of the community can accommodate investments from communities that have capital capabilities from people who have the ability and capital but cannot run businesses productive. In order to empower and improve the economy of the small business community, BMT operates based on the profit sharing system with the BMT system have several advantages including:

Sharia-oriented BMT has a basic requirement for the implementation of BMT in Islamic society and this system get a response not only to the Islamic community but also from non-Muslim communities. Second, the system of results that are applied so that the opportunity to harm the people small entrepreneurs, almost no distance

between small entrepreneurs and BMTs is available partnership relationship. Third, investor relations and entrepreneurs who are sharp, compassionate, fostered in accordance with the principle of profit sharing, the relationship between BMTs as financiers and small businessmen is not only limited as a relationship between bankers and customers. In the actual Sharia system not only profit sharing but also a loss that is if the entrepreneur profits then the BMT fortunately, if the businessman loses BMT, he is also taking responsibility.<sup>21</sup> Fourth, the activity of saving indicators of success along with the plan of the entrepreneur small in using the profits of his business. BMT managers direct small entrepreneurs to save these savings activities BMT has provided sharing type of savings according to the needs of its customers, which in turn save activities this can be used as an indicator that occurs in society. Fifth, small business development is based on knowledge and skills local community. Business development by small entrepreneurs is carried out by the community as the owner and business manager. Thus, the BMT has systematically been distributing this kind of partnership knowledge and skills is very necessary considering that global competition is getting bigger.

All advantages above can raise the level of small-scale entrepreneurs to a higher level. The efforts of the community coupled with the Islamic economic system that will govern towards improving

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<sup>21</sup> Antonio, Karnaen Perwataatmadja dan M. Syafi'i, 1992. *Apa dan Bagaimana Bank Islam*. Yogyakarta: Dana Bhakti Wakaf. Page. 49

the economy of the community itself. Referring to the function of BMT as an institution between fund owners and borrowers, BMT operates based on Islamic economic principles which essentially apply that funds are basically one of the means of production to improve welfare together, not the welfare of individuals. BMT grows out of desire and initiative community itself, so BMT is one type of non-governmental organization working from funds for the customers.<sup>22</sup>

## **B. Baitul Maal wat Tamwil Universitas Muhammadiyah Yogyakarta**

### 1. History of BMT UMY

BMT UMY started its activities since the soft launching at the beginning of February 2011 in a cultural speech forum by Prof. Dr.B.J.Habibie which was held at UMY Sportorium. After fulfilling the representative office in the K.H Building. A.R. Fakhruddin B, at the end of April 2011, the ceremony of BMT UMY by Mr. Jusuf Kalla on May 10, 2011, was attended by the Head of DIY Trade and Cooperative Office, Sleman Regent, Yogyakarta Mayor, Yogyakarta UIN Kalijaga Chancellor and BMT managers in DIY and guests other invitation. BMT UMY has distributed to students, lecturers, employees, and a number of MSMEs around the UMY campus. BMT UMY works with business partners to further improve services to the UMY academic community, especially students and lecturers. For students of UMY, they are offered financing

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<sup>22</sup> Syahriah Sahrir Dalle, "Kontribusi Baitul Maal wat Tamwil terhadap peningkatan ekonomi masyarakat" available on <https://media.neliti.com/media/publications/240205-kontribusi-baitul-maal-wat-tamwil-bmt-te-bb126b45.pdf>, accessed on November 18<sup>th</sup> 2018 8.33 pm

products in the form of purchasing laptops, Netbooks, Tablets and Mobile Phones. For lecturers and employees, they get financing products in the form of purchasing cars, motorbikes, renovations and home ownership. This program was launched in early June 2011 and showed a positive response and the UMY academic community was shown by many funding proposals to BMT UMY.

BMT UMY was established with professional and credible management principles with capable & trusted motto managed by human resources who have excellent abilities and skills compared to Islamic microfinance institutions and supported by a range of management, management supervisory boards and sharia supervisory boards that have managerial abilities and Islamic knowledge recognized by their expertise.<sup>23</sup>

## 2. Vision and Mission

### a. Vision

Become a Leading BMT in the field of Sharia-based Financial Services  
Empowerment of alumni and Amil businesses.

### b. Mission

- 1) Systematic and continuous improvement for the achievement of quality services and sharia value.
- 2) Carry out business with a companion and empowerment of MSMEs community based and Muhammadiyah business charity for increase business quantity and quality.

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<sup>23</sup> BMT UMY, "Profil BMT UMY", Available on <http://bmtumy.com/profil/>, accessed on March 23th 2019 at 4.19pm

- 3) Developing Alumni-based SDI (Human Resources) quality with work ethic and high integrity, discipline and dynamically supported by mastery of information technology.

### 3. Organization Committee

#### a. Administrator

Chairman: Misbahul Anwar, S.E. M.Si

Secretary: Uang Wari S.E.M.EK

Treasurer: Dr. Suryo Pratolo. S.E., M.Si., Akt.

Customer: Alni Rahmawati . S.E., M.M

Dr. Masyhudi Muqorobin.M.Sc.,Akt.

#### b. Manajement Supervisory Board

1) Ir. H. M. Dasron Hamid. M. Sc. (Alm)

2) Siti Noordjanah Djohantini. S.E.,M.M.,M.Si.

3) Lilies Setiarti. S.E., M.Si.

#### c. Sharia Supervisory Board

1) Dr.H. Syamsul Anwar (Chairman of the Tarjih Council Muhammadiyah)

2) Muhammad Halimi. S.E (MUI of Yogyakarta)

## C. *Fiqh* Perspective

### 1. The definition of *Fiqh*

*Fiqh* (law) is part of the element of Islamic teachings as a guideline for human beings, especially in doing the task of the ruling on the earth. Islamic *Fiqh* tends to speak about something that relates to whether or not a

implementation of Amaliah, or in other words something associated with halal-haram in Islamic religion.

### **Based on etymology**

According to Etymology (language), *Fiqh* is **الفهم** (understand), such as the statement: **فقهت الدرس** I understand that lesson. This meaning is in accordance with the meaning of *Fiqh* in one of Imam Bukhari's historical hadith:

من يريد الله به خيرا يفقهه في الدين

"Whoever wants God to be a good man at his side, is undoubtedly given to Him the understanding (profound) in the knowledge of religion." The *Fiqh* sense is etymologically which means to understand, be clever and cleverness. Show to "The meaning of Things" or "science". *Fiqh* by language is knowing something by understanding. From the linguistic aspect, *Fiqh* means understand (understanding), the experts "Ushul jurisprudence is more inclined to the limitation (definition) of the principles called by Imam Syafi'i as: knowledge concerning the laws of the Syari'i Amali, which is obtained by the intermediary *dalil-dalil* that is detailed.<sup>24</sup>

### **Based on Terminology**

The meaning of *Fiqh* in terms of terminology, *Fiqh* is generally called as "the knowledge of the laws of the Syara' of generalist which is deduced from the evidence that has been detailed." Based on the defendant, it can be

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<sup>24</sup> Iffatin Nur, 2013. *Epistemologi Fiqih*, Tulungagung: STAIN Tulungagung Press, Page.3

concluded that the *Fiqh* is a knowledge or understanding of the laws of the Syara' whose nature is *Amaliyah*. The knowledge is obtained through detailed or non-global evidence.<sup>25</sup>

*Fiqh* or Islamic law is one of the main elements of Islamic teachings. Different from the other two main elements of Islamic teachings, namely creed and morality, *Fiqh* occupies the most central position because it marks a person's Islamic account formally. This is because the *Fiqh* contains Islamic teachings that are practically the implementative and outward patterned, which are the rules of practical living that include aspects of rituals (worship).<sup>26</sup>

#### **D. Role and Function of National Sharia Council of Indonesian Ulama Council (DSN-MUI) in controlling sharia conformity**

##### 1. Indonesian Ulama Council

###### a. The history of Indonesian Ulama Council

The State and state system in Indonesia can not be separated from the role of scholars, either in the days before independence, during the struggle for independence or when filling the independence. Scholars play an important role as a leader and guide the community in instilling the value of Islamic teachings as a living grip.

In the Saga of Kings Pasai is mentioned that Merrah Silu, King Pasai First, gained legitimacy as Sultan with the title Malik As-Salih

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<sup>25</sup> Imam Mustofa, 2016. *Fiqih Mu'amalah Kontemporer*, Jakarta: PT. RajaGrafindo Persada, Page. 4

<sup>26</sup> Agus Supriyanto, "Ijtihad: Makna dan Relasi nya dengan Syari'ah, Fiqih, dan Ushul Fiqih", *Jurnal Masalahah*, Vol.1 No. 1 (Juli 2010) Page. 1-2.



(1637-1641 A.D.) through the legitimacy of scholars who confirmed the royal institutions that became lawfully authorities in A kingdom. In the development after that, the role of scholars still play an important role in the country's regulatory system. This was as it happened in the 17th century AD where the king of Aceh appointed the scholars to be responsible chairmen in the religious part of the kingdom. The scholars were appointed as *Qadi Malik al-'adli* (a Justice with fairness) in the kingdom. The task of the Kadi is to address religious problems, giving fatwa to various problems all day, resolving disputes according to Sharia law, and dealing with other religious affairs. Thus, since the reign of Iskandar Muda, Aceh has established a judicial institution according to Islamic law headed by *Qadi Mali al-'adli*.<sup>27</sup>

In Indonesian Islamic Society there is a spirit of cooperation or close unity. In addition, there are also Islamic spirits that can be the foundation of their struggle. Islam played a very important role in resisting Dutch colonialism and demanding the country's independence. Islam instilled Jihad fi Sbilillah which has been embedded in the heart and soul of the people. The spirit of Jihad fi Sabilillah is a strong folk spirit to continue fighting against the invaders. Therefore, the scholars have formed a line of soldiers known as "The Army of God (Hezbollah) and" The Way of God ". This situation was now due to the motto of the

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<sup>27</sup> M Cholil Nafis, 2011. *Teori Hukum Ekonomi Syariah*. (Jakarta: Universitas Indonesia). Page.70-77.

the slogan of *Min A-faith* (love of Homeland is part of faith). This teaching is a patriotism of Indonesian people based on religion.

b. The Role of Indonesian Ulema Council

Indonesian Ulema Council Which is the institution of deliberations of the scholars, *Zu'ama*, and Muslim scholars as well as the *Pengayom* for all Muslims Indonesia is the most competent institutions for the resolution and response of every social religious problem that is always arising and faced Community and have gained full trust, both from the public and from the government.

In line with the above, it is reasonably appropriate that the MUI is in accordance with the mandate of the National consultative VI of 2000, always striving to improve the quality of its role and performance, especially in providing solutions and religious answers to Every problem that would be able to meet the expectations of society that is increasingly critical and high awareness of its religion.

As a religious organization, the Indonesian Ulama Council has a purpose and role that is leading to religious. MUI has the purpose of participating in a fair and prosperous society and is safe and peaceful. This is as mentioned in the basic guidelines of the MUI which passed the national Deliberation (MUNAS) I on 26 July 1975. Article 3 basic guidelines MUI mentioned that the Council of scholars aims to participate in establishing a safe society in accordance with Pancasila, the Constitution 1945, and the outlines of the state Haluan. In Munas II,

article 3 of the MUI basic guidelines has been refined into: "MUI aims to participate in creating a safe, peaceful, fair, and prosperous society that is spiritual and physical in accordance with Pancasila, the Constitution 1945, and the outlines The state of Allah almighty. Meanwhile, in Munas III which took place on 23 July 1985 in Jakarta, article 3 of MUI Basic guideline is enhanced to: "MUI aims to practise Islamic teachings to participate in realizing a safe, peaceful, fair, and prosperous society that is spiritual and physical. In accordance with Pancasila, the Constitution 1945, and the outlines of the state of the kingdom that is established by Allah SWT in the Republic of Indonesia based on Pancasila.<sup>28</sup>

The main task of MUI is to build and guide the people to improve the faith and practice the teachings of Islam in an effort to realize a safe, peaceful, just, and prosperous society that is spiritual and physical in accordance with Pancasila, the law Basic 1945, and the outlines of the state Haluan. In the basic guidelines of MUI tahun1980 and the basic guidelines of MUI years 1985, mention that the main task is not listed anymore because of the term is already covered in the purpose of MUI found in article 3 of the MUI basic guidelines.

While the role of MUI as formulated by Munas I in the basic guidelines of article 4, which is a role to issue fatwa and advice to the Government and Muslims in matters relating to religious issues and peoples ' Welfare, keep Unity of the people, institutional representation

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<sup>28</sup> *Ibid*, Page 78

of Muslims and as intermediaries that harmonize the relationship between religious people.

In carrying out daily activities, the MUI establishes commissions. The task of reviewing legal issues is handed over to the Fatwa Commission. The main task of the Fatwa Commission is to accommodate, examine, review, and formulate the fatwa and the law on religious issues arising in the community. Fatwa is a legal alternative needed to provide answers about life issues from religious perspectives, both for society and government. The task has been stated at the beginning of MUI. Among the duties of the MUI board is to formulate a fatwa and advice that will be conveyed to the government and society.

Since its founding, the MUI has studied religious and societal issues. If grouped, the fatwa produced by MUI can be classified into several aspects: worship, religious affairs, social issues of societal and science and technology. In 1998, MUI formed an institution that specifically addresses the fatwa about the *Fiqh* rulings (Sharia economy). The Institute is called the National Sharia Council of Indonesian Ulama Council (DSN-MUI). Since the founding of the 1998 until the year 2007, the DSN-MUI has issued a lot of *Fiqh* rulings.

2. The role of national Sharia Board of Indonesian Ulama Council (DSN-MUI) in Sharia finance institutional
  - a. History of Establishment of National Sharia board

The plan for forming the DSN began to be discussed in 1990 when the workshops and meetings were discussed on bank interest and economic development of the people and recommended that the Government facilitate the establishment of banks based on sharia principles. Because the conclusion of this workshop indicates a tendency to liken the bank interest to *riba*. Furthermore, in 1997, the MUI held an Islamic fund workshop on sharia funds, which one of its recommendations was the establishment of a DSN. At the meeting on 14 October 1997, it was agreed on the formation of DSN. This proposal was followed up so that the DSN was officially 1998. In the year 1999, the first board of DSN was Manteri Agama Republik Indonesia, Prof. H.A. Malik Fajar at the National Consultative Work event (Mukernas) MUI in Jakarta, precisely in February 1998. The presence of the DSN of the year coincided with the establishment of Sharia Development Committee in Bank Indonesia which later renamed the Sharia Banking bureau.

DSN is an institution formed by MUI that is structural under the MUI. The task of the DSN is to perform MUI tasks in addressing issues relating to sharia economics, whether related to sharia or other financial institutions ' activities. In principle, the establishment of the DSN is intended by the MUI as an effort to efficiency and coordinate the scholars in responding to issues relating to economic and financial issues. In addition, the DSN is expected to serve as the supervisor, director and driver of the implementation of Islamic values and principles in

economic life. As such, the DSN-MUI is a proactive role in responding to the development of Indonesian society in Economics and finance.<sup>29</sup>

b. The duties and the authority of DSN MUI

One of the duties of the DSN-MUI is to explore, examine and formulate the values and principles of Islamic law (sharia) in the form of *fatwa* to be used as a mixture of activities and economic affairs in general and in particular to the affairs and activities LKS transaction, which is to run LKS operations and supervise implementing and implementing *fatwa*. To carry out the duties of scholars, the DSN-MUI has the following authorities:

- 1) issued a *fatwa* binding on the Sharia supervisory board in each Sharia financial institution and is the basis for the legal action of the Credit Party.
- 2) issuing a *fatwa* that is the basis for the provisions or regulations issued by the institutions that are entitled such as the Ministry of Finance and Bank Indonesia.
- 3) Provide support and or revoke and support the names that will be seated as a Shariah supervisory board in a sharia financial institution.
- 4) Invite experts to explain a problem that is reproduced in the discussion of sharia economics, including monetary authorities or financial institutions in and outside the country.

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<sup>29</sup> *Ibid*, Page 82

5) provide recommendations to the sharia financial institution to stop the deviation from the fatwa issued by the National Sharia Board.

6) propose to an institution that is entitled to take action if the order is not heard.

The DSN-MUI is the only institution authorized by the law to establish a fatwa about the Islamic finance and sharia economy. In addition, the DSN-MUI is an organization established to provide the provisions of Islamic law to the LKS in carrying out its activities. For LKS the provisions of the law were very important and became the main legal basis in carrying out its operations. Without any legal provisions, including the aspect of Islamic law will complicate the LKS in running all its activities.

Thus, the recognition of the fatwa of the DSN-MUI as the only guide in operating the LKS is not separated from the efforts to minimize the difference of sharia interpretation that can lead to the difference of enforcement against A valid case. This is necessary because the domain of Islamic Law determination (*Fiqh*) and *Fiqh* character that is elastic is broad and very dependent on factors affecting Islamic ruling.<sup>30</sup>

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<sup>30</sup> *Ibid*, Page 89