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COMPARATIVE STUDY OF SALE AND PURCHASE ACCORDING TO MADHHAB FIQH AND FATWA DSN MUI NO. 110

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Abstract.

This study aims to examine and compare the concept of sale and purchase (jual beli/bay') according to the four schools of Islamic jurisprudence (madhab fiqh) Hanafi, Shafi'i, Maliki, and Hanbali and to analyze their relevance to DSN-MUI Fatwa No. 110/DSN-MUI/IX/2017 on the Contract of Sale and Purchase (Akad Jual Beli). This research employs a normative-comparative legal approach using library research methodology, drawing on classical fiqh texts, contemporary muamalah literature, scholarly journals, and DSN-MUI fatwas. The findings reveal that all four schools share strong common ground on fundamental principles: the permissibility of sale and purchase based on QS. al-Baqarah: 275, the necessity of mutual consent (ridha/taradi), and the prohibition of riba and excessive gharar (gharar fahisy). Differences arise at the technical-operational level, particularly in determining the number of pillars (arkan): Hanafi recognizes only one (sighat), while Shafi'i and Maliki recognize three, and Hanbali four. Divergence also emerges on the validity of ta'athi (exchange without verbal offer-acceptance), and the application of sadd al-dzara'i' to contracts such as bai' al-'inah and bai' al-wafa'. DSN-MUI adopts an eclectic (talfiq) approach oriented toward maqashid al-shari'ah: adopting the majority's (jumhur) pillar structure (Shafi'i-Maliki), applying Maliki-Hanbali sadd al-dzara'i' in rejecting ribawi legal stratagems (hilah ribawiyyah), and accommodating Hanafi-Hanbali flexibility on ta'athi and 'urf for modern transactional needs. In conclusion, the opinions of the imams of the four schools remain highly relevant as methodological references for DSN-MUI in responding to contemporary challenges in Islamic economic law.

Keyword: Bay' Contract; Comparative Islamic Economic Law; DSN-MUI; Fatwa; Schools Of Islamic Jurisprudence.

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A. Introduction

Buying and selling is one of the most basic forms of muamalah in human life. This activity not only functions as a means of fulfilling the needs of life, but also becomes an important part of the community's economic system. From an Islamic perspective, buying and selling has rules and principles sourced from the Qur'an, Hadith, and the ijtihad of scholars, which then developed in various schools of fiqh such as the Hanafi School, the Maliki School, the Shafi'i School, and the Hanbali School. Each school has differences in understanding the harmony, conditions, and practices of buying and selling, although it remains within the corridor of sharia principles.

Previous studies have discussed the comparison of the pillars, conditions, and various akad in the fiqh muamalah across the four sects, as shown in a comparative study that maps the variation of classical scholars' views on the validity of akad(Bakti et al., 2026). On the other hand, another study highlights how the fatwa of the National Sharia Council-Indonesian Ulema Council (DSN-MUI) was formulated with reference to the treasures of madhhab fiqh, including in contemporary issues such as sanctions clauses in the contract, which show the efforts to harmonize classical fiqh and the needs of modern Islamic economic practices(Zawawi, 2017).

The development of an increasingly modern era has brought significant changes in buying and selling practices, especially with the presence of digital technology and contemporary economic systems. This requires an adjustment of Islamic law to remain relevant to the current conditions of society. In Indonesia, one of the institutions that plays a role in providing guidance on sharia economic law is the National Sharia Council of the Indonesian Ulema Council (DSN-MUI), which issues various fatwas as guidelines for sharia economic actors.

One of the fatwas that regulates buying and selling is DSN-MUI Fatwa No. 110/DSN-MUI/IX/2017 concerning Sale and Purchase Contracts. This fatwa provides more systematic and contextual provisions related to the implementation of buying and selling in modern economic practices, including aspects of clarity of objects, prices, contracts, and prohibitions on the elements of gharar, riba, and maisir. This fatwa is an important reference in the practice of Islamic financial institutions and daily transactions in the community.

However, there is a possibility of a difference between the provisions formulated in the DSN-MUI fatwa and the views of scholars in the classical fiqh school. These differences can arise due to differences in legal istinbath methods, social contexts, and the development of economic needs. Therefore, it is important to conduct a comparative study to understand the extent of conformity and difference between the views of the fiqh school and the DSN-MUI fatwa, especially in terms of the concept and practice of buying and selling. Thus, the study that explicitly combines the comparison of the sale and purchase agreement of the four schools with the systematic analysis of the DSN-MUI fatwa is still relatively limited, thus leaving a gap in the research that is the starting point of the novelty of this study.

This research is relevant because it can provide a more comprehensive understanding of the law of buying and selling in Islam, both from a classical and contemporary perspective. More specifically, this study fills in the gap that has not been examined much in previous studies, namely the meeting point and the point of divergence between the views of the four schools of fiqh regarding the harmony and conditions of buying and selling and the position taken by the DSN-MUI Fatwa, so that it can be known to what extent the fatwa represents one of the schools, combines several schools at once, or actually takes its own path of ijtihad. In addition, this study is also expected to be able to make an academic contribution to the development of sharia economic law in Indonesia, as well as provide clarity for the public in carrying out transactions in accordance with sharia principles.

B. Method

This research uses a type of normative legal research, which is research that focuses on the study of legal norms contained in Islamic legal sources and applicable regulations. This approach is used to analyze the concept of buying and selling according to the fiqh school and the provisions in the DSN-MUI Fatwa No. 110/DSN-MUI/IX/2017 concerning Sale and Purchase Contracts.

The approaches used in this study are comparative approaches and conceptual approaches. The comparative approach is carried out by comparing the views of scholars from the fiqh school, namely the Hanafi School, the Maliki School, the Shafi'i School, and the Hanbali School, with the provisions contained in the DSN-MUI fatwa. Meanwhile, a conceptual approach is used to understand the basic concepts of buying and selling in Islamic law, including the basic principles, conditions, and principles.

The source of legal materials in this study consists of primary, secondary, and tertiary legal materials. Primary legal materials include the Qur'an, Hadith, and Fatwa DSN-MUI No. 110/DSN-MUI/IX/2017. Secondary legal materials are in the form of fiqh books from each school, books, scientific journals, and the results of previous research that are relevant to the research topic. The tertiary legal materials include dictionaries, encyclopedias, and other sources that support the understanding of the terms used in research.

The source of legal materials in this study consists of primary, secondary, and tertiary legal materials. Primary legal materials include the Qur'an, Hadith and several DSN-MUI Fatwas, namely Fatwa No. 110/DSN-MUI/IX/2017 concerning Buying and Selling Contracts as the main reference, and supported by Fatwa No. 04/DSN-MUI/IV/2000 concerning Murabahah, Fatwa No. 05/DSN-MUI/IV/2000 concerning Salam Buying and Selling, Fatwa No. 06/DSN-MUI/IV/2000 concerning Buying and Selling Istishna', and Fatwa No. 28/DSN-MUI/III/2002 concerning Buying and Selling of Currency. The classical fiqh books that are the main reference in this study are *al-Fiqh al-Islami wa Adillatuhu* by Wahbah az-Zuhaili, which contains a comprehensive study of muqaran fiqh (comparison) on the views of the Hanafi, Maliki, Shafi'i, and Hanbali schools; *al-Majmu' Syarah al-Muhadzdzab* by Imam an-Nawawi as the main reference for the views of the Shafi'i School; and *al-Mughni* by Ibn Qudamah as the main reference for the views of the Hanbali School. Secondary legal materials are in the form of contemporary muamalah fiqh books, as well as scientific journals and previous research results that are relevant to the research topic. The tertiary legal materials include dictionaries, encyclopedias, and other sources that support the understanding of the terms used in research.

The technique of collecting legal materials is carried out through literature studies, namely by reviewing and collecting various literature related to buying and selling from the perspective of fiqh schools and fatwa DSN-MUI. All legal materials obtained are then classified and arranged systematically according to research needs.

The legal material analysis technique used is qualitative analysis with descriptive-comparative methods. Descriptive analysis was carried out to explain in detail the concept and provisions of buying and selling according to each school of fiqh and fatwa DSN-MUI. Furthermore, comparative analysis is used to identify similarities and differences between the two, as well as to draw conclusions regarding the relevance and implementation of DSN-MUI fatwas in the context of contemporary Islamic law.

C. Result and Discussion

1. Definition of Buying and Selling

Buying and selling is one of the most basic forms of muamalah transactions in human life. The jurists of various schools have formulated the definition of buying and selling with different approaches, although the essence remains the same, namely the exchange of property that results in the transfer of ownership. The difference in the formulation of this definition reflects the ijtihad method and methodological tendencies of each sect.

The Hanafi school defines buying and selling as the exchange of property for property in a way that is specified through ijab and kabul. Wahbah al-Zuhaili explained that Hanafi scholars emphasize the formality aspect of the contract as the only pillar of buying and selling, while the parties who have a contract and the object of buying and selling are seen as conditions, not harmonies (Dr Wahbah tu Zahaili, 2020). This view is based on the principle that the contract is the essence of the sale and purchase itself, while the other elements are external in nature that support the validity of the contract.

In contrast to the Hanafi, the Shafi'i school defines buying and selling as the exchange of property for property in a certain way with the aim of having forever. Al-Nawawi in al-Majmu' asserts that this definition contains several important elements: exchange is reciprocal (mu'awadhah), the object is property (mal), there is a certain way that is required, and the goal is full ownership (tamlik muthlaq)(Nawawi, 2022). The Shafi'i school tends to be stricter in requiring all elements to be present perfectly, including the clear pronunciation of ijab-kabul.

Madhhab Maliki formulates buying and selling as a mu'awadhah contract for something that is not a benefit and is not a gharizah pleasure, nor is it a hibah that is accompanied by a reward.(Mardani, 2015) This definition has its own uniqueness because it explicitly distinguishes buying and selling from ijarah (rent) whose object is benefit, as well as distinguishing it from marriage which also has an element of mu'awadhah.(Jamaluddin dkk., 2023)

The Hambali school defines buying and selling as the exchange of property for property, both of which can be managed (mutasharrif fihi), which is carried out by competent parties through ijab and kabul, or through ta'athi (handing over to each other without saying). Ibn Qudamah in al-Mughni emphasizes that the most important thing is the essence of exchange, not merely tied to the formality of utterance. (Ibnu Qudamah, 2022). This makes the Hambali school the most accommodating to various forms of modern transactions.

Meanwhile, DSN-MUI through Fatwa No. 110/DSN-MUI/IX/2017 defines buying and selling as a contract between the seller and the buyer that results in the transfer of ownership of the object to be exchanged, namely goods (mabi') and price (tsaman). This definition is operational in nature and absorbs the best elements of the various schools with an emphasis on the transfer of ownership aspect as the ultimate goal (DSN-MUI, 2017). Mardani assessed that DSN-MUI in formulating this definition refers to the views of the number of fuqaha, especially Shafi'iyyah and Hanafiyyah, with adjustments to the context of Indonesia's modern Islamic economy.

2. Legal Basis of Buying and Selling

All schools of jurisprudence agree that buying and selling is legal mubah (permissible) based on three main sources of Islamic law: the Qur'an, hadith, and ijma'. The main evidence that is used as the basis for buying and selling abilities is the word of Allah in QS. al-Baqarah (2): 275: وَأَحَلَّ اللهُ الْبَيْعَ وَحَرَّمَ الرِّبَوا ("And Allah has legalized buying and selling and forbidding usury"). This verse is the fundamental basis for all schools that buying and selling transactions are basically permissible, while riba is prohibited. In addition, QS. al-Nisa' (4): 29 affirms the necessity of willingness (an-taradhin) between the parties to the transaction.

The hadith that is most often quoted by all madhhabs is the hadith of Rifa'ah ibn Rafi' where the Prophet PBUH was asked: what is the best job? He replied: The work of the Messenger of Allah (peace and blessings of Allah be upon him) "A man's work with his own hands and every mabrur trade".(*HR. Ibn Majah No. 2185*) Another hadith that is the basis is the prohibition of buying and selling that contains elements of gharar The Messenger of Allah (peace and blessings of Allaah be upon him) said:.(*HR. Muslim No. 1513*)

Scholars throughout history have agreed (ijma') on the ability to buy and sell. Wahbah al-Zuhaili emphasized that none of the scholars from the four schools have a problem with the halalness of buying and selling in principle, considering the human need for this transaction in daily life.

The DSN-MUI fatwa on buying and selling in general and special buying and selling (murabahah, salam, istishna') refers to the verses of the Qur'an, the hadiths of the Prophet PBUH, the rules of fiqh Origin in permissible transactions "The original law in muamalah is permissible" and the opinion of the jurists of various sects. DSN-MUI also considers the maslahah and needs of the Indonesian people in formulating its fatwas.(DSN-MUI, 2017).

3. Pillars and Conditions of Buying and Selling

The most striking difference between the four schools lies in the determination of the pillars of buying and selling. This difference is not just technical, but reflects a fundamental methodological difference in understanding what is the core substance of a contract. In general, the jurists distinguish between the pillars that are an internal part of the contract and the conditions that are external prerequisites for its validity.

The Hanafi school is the most concise in establishing the harmony, which is only one: sighat (ijab and kabul). For Hanafi, rukun is the part that is the core of the contract itself, while the parties to the contract and the object of buying and selling are the conditions for validity, not harmony. The requirements set are divided into four levels. First, the condition of in'iqad (the formation of an agreement) which includes the skills of the parties and the object in the form of mal mutaqawwim (property of value according to sharia). Second, the legal terms that include the object are not impure and the price must be clear. Third, the condition of nafadz (the validity of the contract) is that the seller is the legal owner or his representative, without violating the rights of third parties. Fourth, the condition of luzum (binding contract) is that there is no khiyar right that still depends on the contract. This approach makes Hanafi the most flexible because it minimizes harmony while providing a tiered system of terms.(Djuwaini, 2010)

In contrast to Hanafi, the Shafi'i school stipulates three pillars of buying and selling: aqidain (seller and buyer), ma'qud 'alaih (object of contract that includes goods and prices), and sighat (ijab and kabul). This madhhab is the most detailed in requiring each pillar. For aqidain, it is required: puberty, reasonableness, not in a forced state, and not mahjur 'alaih (prevented from transacting). For the object is required: sacred, can be used in accordance with syarak, can be handed over to the buyer, belongs to the seller or with his permission, and is clearly known by both parties. For sighat, it is required that there be mutual agreement between ijab and kabul, take place in one assembly of akad (ittihad al-majlis), and not be interrupted by things that show distrust. Al-Nawawi emphasized that all of these conditions are cumulative in the absence of a single condition to cancel the contract in its entirety.(Azzam, 2022)

The Maliki school also establishes three pillars: aqidain, ma'qud 'alaih, and sighat, but with different emphasis. The uniqueness of Maliki lies in the addition of prices (tsaman) as part of ma'qud 'alaih which must be explicitly mentioned, as well as the requirement of parties who are rashid (smart in managing property) and not safih (extravagant). Maliki also has a distinctive view that the contract can take place with a gesture for the mute party, and is more flexible in recognizing various forms of khiyar as a protection mechanism for the weaker parties in the transaction. According to Jamaluddin et al., Maliki's approach that emphasizes the capacity of asset management (rasyid) reflects concern for consumer protection that precedes modern concepts.(Jamaluddin dkk., 2023)

The Hambali school establishes the four most complete pillars: aqidain, sighat, mabi' (goods), and tsaman (price). By separating goods and prices as two independent pillars, Hambali emphasized that both must exist and be clear from the beginning of the contract. The most significant difference between Hambali and other schools is its recognition of ta'athi (mu'athah) buying and selling without the verbal ijab-kabul as a valid form of sighat. Ibn Qudamah argues that the essence of the contract is willingness (ridha), not mere words, so that the direct exchange of goods and money without verbal speech meets the requirements for a valid sale and purchase. This makes Hambali the most relevant school to be applied to modern digital and self-service transactions.(Haroen, 2000)

Fatwa No. 110/DSN-MUI/IX/2017 stipulates three pillars of the sale and purchase agreement: the parties (al-muta'aqidain), the object of sale and purchase (mahall al-'aqd), and the ijab-kabul (sighat al-'aqd). In substance, DSN-MUI takes a middle position by absorbing the views of the majority (Shafi'i and Maliki) in terms of the formulation of the three pillars. However, in terms of flexibility to the form of modern contract and recognition of ta'athi, DSN-MUI accommodates Hambali's view. The conditions set by DSN-MUI comprehensively include the conditions of the parties, the conditions of the object (halal, clear, deliverable, free from disputes), and price conditions (clear and agreed in advance), all of which are a synthesis of the conditions set by the four schools. To make it easier to understand the differences and similarities of opinions of the four schools and the position of DSN-MUI, the following is presented a comparative table of harmonious harmony and conditions of buying and selling in a systematic manner:

Table 1. Comparison of Pillars of Buying and Selling According to the Four Madhhabs and DSN-MUI

No	Rukun	Hanafi	Syafi'i	Maliki	Hambali	DSN-MUI
1.	Sighat (Ijab-Kabul)	✓ (the only pillar)	✓	✓	✓ (including ta'athi)	✓ (including ta'athi)
2.	Aqidain (Seller & Buyer)	Conditions, not harmony	✓	✓	✓	✓ (al-muta'aqidain)
3.	Ma'qud 'alaih (Goods)	Conditions, not harmony	✓ (Ma'qud 'alaih part)	✓	✓ (Mabi' Rukun Separate)	✓ (mahall al-'aqd)

4.	Tsaman (Price)	Conditions, not harmony	✓ (Ma'qud 'alaih part)	✓ (must be called explicit)	✓ (separate pillars)	✓ (Mahall al-'Aqd section)
5.	Number of Pillars	1	3	3	4	3

4. Allowed Buying and Selling

Based on the principle of الأصل في المعاملات الإباحة basically the activity of muamalah is permissible, the jurists of the four schools agree that the law of origin of buying and selling is mubah. They then detailed the various forms of buying and selling that are allowed, both those that are cash and those that contain elements of time suspension.

The most basic and agreed upon trade without difference is muthlaq buying and selling, which is a transaction in which goods and prices are handed over directly in one assembly. All schools and DSN-MUI allow it without difference, because it meets all the required elements.(Mardani, 2015)

Buying and selling salam (pre-order) is also allowed by all madhhabs, where the price is paid in advance in cash while the goods are handed over later. The ability of salam is based on the hadith of the Prophet PBUH that he allowed the people of Medina to practice salam with certain conditions. The difference between the sects is only in technical details, such as whether the capital of salam must be fully handed over to the council of the contract (required by the jumhur) or whether it can be paid in installments (allowed by some Maliki scholars). DSN-MUI formalized the sale and purchase of salam through Fatwa No. 05/DSN-MUI/IV/2000.(DSN-MUI, 2000)

Murabahah buying and selling is where the seller informs the cost of goods and the profits he takes is allowed by all madhhabs because it fulfills the principles of transparency and willingness. Nasrun Haroen assessed that the ability of murabahah is based on the principle of full willingness because the buyer knows transparently the amount of the cost of goods and the seller's profit margin.(DSN-MUI, 2000)

The buying and selling of istishna' orders for the manufacture of certain goods are allowed by all schools even though they are on different grounds. The Hanafi allowed it based on 'urf and istihsan because these transactions had been going on for generations. Other sects allow it by reciting to the salam. DSN-MUI formalized the ability of istishna' through Fatwa No. 06/DSN-MUI/IV/2000.(DSN-MUI, 2000)

5. Prohibited Buying and Selling

The fuqaha of the four schools and DSN-MUI expressly prohibit various forms of buying and selling that contain elements that are contrary to the sharia.

First, buying and selling unclean and prohibited goods. All madhhabs prohibit the buying and selling of unclean goods such as carcasses, blood, pigs, and khamar. But there is a difference: Hanafi allows tanned carcass and dogs to be trained to hunt because it has beneficial value. Shafi'i and Hambali absolutely prohibit the buying and selling of dogs based on the hadith: The Prophet forbade the price of a dog (HR. Bukhari-Muslim), while Maliki took the middle ground by allowing the buying and selling of useful dogs.(Muslich, 2022)

Second, buying and selling that contains gharar fahisy (great ambiguity). All madhhabs prohibit gharar fahisy based on the prohibition of the Prophet PBUH in HR. Muslim. Examples are buying and selling habalul, fish in water, or birds in the air. Rudiansyah emphasized that the haram of gharar is based on QS. al-Nisa': 29 because gharar creates uncertainty that results in one side potentially losing money. (Rudiansyah, 2020)

Third, buying and selling that contains usury. All schools prohibit riba fadhl (the exchange of unequal ribawi goods) and riba nasi'ah (addition due to the suspension of time). The difference is only in the determination of the 'illat extension to items other than the six types mentioned in the hadith. DSN-MUI expressly prohibits all transactions that contain usury.(DSN-MUI, 2017)

Fourth, buying and selling najsy (price fraud) and tadlis (goods quality fraud). All madhhabs prohibit both based on hadiths that prohibit fraud in transactions. DSN-MUI includes this prohibition in Fatwa No. 110/DSN-MUI/IX/2017 as part of the prohibition of zhulm (tyranny) and tadlis. Overall, the DSN-MUI fatwa summarizes all harams in one comprehensive article that prohibits riba, gharar, maysir, dharar, zhulm, haram, and vices.

6. Disputed Trades

In addition to the things that are agreed upon, there are several types of buying and selling that are masail khilafiyyah among the fuqaha. This debate was born from differences in understanding legal texts, applying qiyas, or applying fiqh principles such as istihsan, maslahat, and sadd al-dzara'i'. This debate has real implications for modern Islamic financial products and mechanisms.

a. Buying and Selling with Ta'athi (Mu'athah)

Ta'athi is buying and selling through handing over goods and prices to each other without verbal ijab-kabul. The core of the debate rests on the question: is verbal ijab-kabul a harmony that must exist, or is it just one of the ways of realizing the willingness that is the core of the contract? The Hambali school and some Hanafi allow ta'athi because of QS. al-Nisa': 29 only requires willingness (an-taradhin) without mentioning verbal utterances, and rules Habit is tight legitimize practices that have become a habit of the community.(Eliska, 2017)

The Shafi'i school generally requires the verbal recitation of ijab-kabul, based on the hadith إِنَّمَا الْبَيْعُ عَنْ تَرَاضٍ which according to them should be realized through clear recitations. However, some scholars of mutaakhkhirin Shafi'iyyah such as al-Nawawi allow ta'athi for small items (haqir) in order to avoid difficulties.

DSN-MUI in Fatwa No. 110/DSN-MUI/IX/2017 does not explicitly require verbal ijab-kabul in every transaction, so it implicitly accommodates ta'athi. This is in line with the needs of retail transactions, e-commerce, and digital payments which are the economic reality of the Indonesian people.(Mujahidin & Susilo, 2023)

b. Bai' al-'Inah

Bai' al-'inah is a contract in which a person sells goods to another party on credit, then buys them back in cash at a lower price, so that it economically resembles an interest-bearing debt. The point of the debate: is 'inah a hilah to legalize usury, or is it a valid purchase and sale contract because it meets formal requirements?

The Shafi'i school allows 'inah as long as the formal conditions are met, based on the principle that Islamic law judges zhahir (the visible), not hidden motivations. On the other hand, Maliki and Hambali strictly forbade it based on the hadith: If you pledge allegiance to the sample... May Allah bless you and grant you peace. (HR. Abu Dawud from Ibn Umar), by applying the principle of sadd al-dzara'i': although it is formal in the form of buying and selling, 'inah is a means to usury.(*HR. Abu Dawud No. 3462*)

DSN-MUI followed Maliki and Hambali. Fatwa No. 04/DSN-MUI/IV/2000 emphasizes that buying and selling in Islamic banking must be real (hakiki), not a formality that disguises interest-bearing debt. Oni Sahroni assessed that DSN-MUI's attitude is consistent with the principle of rejecting hilah ribawiyyah in all Indonesian Islamic financial products. (Sahroni & Karim, 2015)

c. Bai' al-Wafa'

Bai' al-wafa' is a sale and purchase contract in which the seller has the right to buy back the goods he sold if he returns the price, and the buyer has the right to use the goods while waiting. The point of the debate: is this a legitimate sale, or is it a copied rahn (pawn) so that it has the potential to contain riba through the benefits taken by the buyer?

The Hanafi madhhab allows it based on 'urf and istihsan with the rules of the What is known is customary, such as conditional.. Meanwhile, Shafi'i and Hambali canceled it because the buyer did not get full ownership (milk tam), and argued with hadith Sell Solution and Condition Not halal buying and selling accompanied by conditions that are contrary to the consequences of the contract.(Muklisin, 2019)

DSN-MUI did not issue a special fatwa on bai' al-wafa', but the needs behind it were accommodated through rahn (sharia pawn) contracts. Mukhlisin considers this approach to be safer from the potential for usury while still meeting the community's needs for asset-based financing.

d. Buy and Sell Sharf (Foreign Exchange)

Sharf is the exchange of money for money, both of the same and different kinds. The core of the debate in the modern era: is non-gold-silver fiat money a usury item that requires the condition of taqabudh fi al-majlis (handover of an assembly)?

All schools agree that the exchange of gold for gold or silver for silver should be cash and equivalent. For cross-type exchanges, the value of the cash origin may be different. A modern distinction arises in fiat currencies: Hanafi is more flexible because its 'illat riba is tsamaniyyah (functions as a medium of exchange) so banknotes should be treated equally.

DSN-MUI through Fatwa No. 28/DSN-MUI/III/2002 allows foreign exchange on the condition that: cash (spot), not for speculation, and the exchange rate is agreed upon at the time of contract. Forward or options foreign exchange transactions that contain speculation are prohibited because they contain gharar and maysir.(DSN-MUI, 2002)

e. Buy and Sell Fudhuli

Fudhuli buying and selling is a sale and purchase that is carried out on other people's property without prior permission from the owner. The point of the debate: is this contract without authority null and void from the beginning (null ab initio), or is it dependent (mawquf) waiting for ratification (diploma) from the owner?

Hanafi and Maliki state that fudhuli is a valid mawquf contract if the owner then ratifies it, based on the hadith of 'Urwah al-Bariqi which acts outside the mandate but is approved by the Prophet PBUH.(Hidayat, 2022)

Shafi'i and Hambali canceled fudhuli directly because ownership or authority is a legal condition that must be present from the beginning, postulating: Don't follow what you don't have (HR. Abu Dawud and al-Tirmidhi). DSN-MUI in Fatwa No. 110/DSN-MUI/IX/2017 emphasized that the seller must be the owner or official representative, so as to follow the opinions of Syafi'i and Hambali.(Azzam, 2022)

Table 2. Comparison of the Attitude of Madhhab and DSN-MUI on Khilafiyyah Issues

The Issue of Khilafiyyah	Hanafi	Syafi'i	Maliki	Hambali	DSN-MUI

Ta'athi (without verbal pronunciation)	May (partially)	Limited (haqir goods)	Limited	Can	Accommodated (implicit)
Bai' al-'Inah	Khilaf	Yes (formal requirements met)	Haram	Haram	Not allowed
Bai' al-Wafa'	May ('urf)	Cancel	Khilaf	Cancel	Replaced by Rahn
Buy and Sell Fudhuli	Mawquf (pending permission)	Cancel	Mawquf	Cancel	Not authorized (seller must be the owner)
Sharf (Valas Fiat Money)	Obligatory cash (tsamaniyyah)	Mandatory cash	Mandatory cash	Mandatory cash	Can (spot, non-speculation)

7. Comparative Analysis; Meeting Points, Differences, and Positions of DSN-MUI

a. Meeting Point (Mawathin al-Ittifaq)

From all the above descriptions, it can be identified that several points of convergence are ijma' or shibh ijma' among the four madhhabs. First, all schools agree that the law of origin of buying and selling is mubah (permissible) based on QS. al-Baqarah: 275, QS. al-Nisa': 29, and authentic hadiths. Second, willingness (ridha/an-tarādhin) is an absolute element and cannot be replaced by any formality. Third, usury in all its forms is haram without exception. Fourth, gharar fahisy (significant ambiguity) that has the potential to harm one of the parties is prohibited. Fifth, the object of sale and purchase must be halal, transferable, and clear in its specifications. These meeting points are the foundation on which DSN-MUI builds the entire fatwa on the sale and purchase contract.

b. The Point of Difference (Mawathin al-Ikhtilaf) and its Roots

The differences between schools are basically not just differences in opinion of furu'iyyah that stand alone, but are the logical consequence of the difference in the methodology of ushul fiqh adopted by each school in the practice of law.

First, the difference in defining the concept of harmony which is an integral part of the contract, with the condition of external prerequisites for the validity of the contract, is rooted in the difference in perspective on the structure of the contract itself. The Hanafi separated the two strictly so that only sighat was considered to be harmonious, while the majority of scholars (Maliki, Shafi'i, Hanbali) included aqidain and ma'qud 'alaih as part of the harmony. This difference is not simply a difference in terminology, but reflects a difference in emphasis between the Hanafi formal-linguistic approach (which centers on sighat as a representation of the will) and the substantive approach of jumhur (which assesses the whole element of transaction as a single legal entity).

Second, the difference in determining 'illat or legal causes as the basis of qiyas results in different legal implications, especially in the case of riba on modern goods. Since qiyas require the similarity of 'illat between the new case and the original nash, the difference in the formulation of 'illat riba between sects, for example, between 'illat "measures" versus "exchange rates" directly expands or narrows the scope of the object considered ribawi.

Third, and the most decisive, is the difference in the intensity of acceptance of istihsan and the application of sadd al-dzari'ah as a legal postulate. The Hanafi and Maliki schools openly accept istihsan, which is to switch from the visible analogy qiyas jali to hidden analogy qiyas or to other postulates in order to realize the benefits, while the Shafi'i school rejects it because it is considered to open up the space of subjectivity in establishing sharia law. This acceptance of istihsan explains why Hanafi are more accommodating to 'urf and ta'athi in sighat akad, while Shafi'i are more oriented towards the formality of zahir (explicit ijab-kabul pronunciation). In line with that, Maliki and Hambali most consistently apply sadd al-dzari'ah to close the gap that has the potential to be a path to riba (hilah ribawiyyah), while Hanafi and Shafi'i are in some cases looser because they focus more on the formal validity of the contract than on the potential for abuse.

c. DSN-MUI Methodological Position: Maqashid Oriented Talfiq

DSN-MUI in compiling its fatwas on buying and selling does not bind itself to one sect exclusively. The approach used is talfiq motivated by maqashid: taking the strongest opinion from each school that is most able to realize the benefits and prevent harm in the context of contemporary Indonesian economics. Structurally, DSN-MUI is closest to Shafi'i in terms of formulating systematic harmony. Preventively, DSN-MUI is closest to Maliki and Hambali in rejecting hilah ribawiyyah through the application of sadd al-dzara'i'(Izmuddin, 2018). Accommodating to the development of modern business practices, DSN-MUI is closest to Hanafi and Hambali in acknowledging 'urf and ta'athi. This synthesis makes the DSN-MUI fatwa a product of collective ijtihad (ijtihad jama'i) that not only relies on classical texts, but also responds to the dynamics of Indonesia's sharia economy in a critical and sustainable manner.

d. Implications for the Development of Indonesian Sharia Economic Law

This comparative study has significant practical implications for the development of sharia economic law in Indonesia. First, for the Sharia Supervisory Board (DPS) of Islamic financial institutions, understanding the differences between schools allows for product supervision that is not only formal-procedural, but also substantive-maqashidi. Financial products may meet the formal requirements of one school but are substantially problematic from the perspective of another. Second, for academics and practitioners of Islamic economic law, this study confirms that the talfiq methodology carried out by DSN-MUI has a strong scientific foundation and is not just a pragmatic compromise. As an illustration, in the issue of ijab kabul buying and selling through electronic transactions (*e-commerce*), there are different views of the madhhab: the classical fiqh of Shafi'iyyah requires a clear sighat lafzhi (speech) and is carried out in one assembly (*ittihad al-majlis*), while Hanafiyyah is looser by recognizing the concept of *bai' al-mu'athah* (Transactions without verbal speech, it is enough with a handover action). In DSN-MUI Fatwa No. 110/DSN-MUI/IX/2017 concerning Sale and Purchase Contracts, DSN-MUI accommodates the ijab kabul which is carried out not in a physical assembly directly including through means of long-distance communication such as written, sign, or electronic as long as there is a compatibility between the ijab and the kabul (*ittihad al-majlis hukmi*, not hakiki). This position shows how DSN-MUI does talfiq between the relaxation of Hanafiyyah and the prudence of Shafi'iyyah to answer the needs of modern buying and selling transactions such as marketplaces and e-banking, without ignoring the principle of clarity of the contract which is the spirit of the two sects. Third, for the general public, this study makes it clear that differences of opinion between schools are not weaknesses, but sharia intellectual property which actually provides flexibility in answering the challenges of the times without sacrificing basic sharia principles (Makmur, 2019).

Conclusion

This comparative study concludes that the four schools of fiqh Hanafi, Shafi'i, Maliki, and Hambali have the same normative basis in looking at buying and selling: the original law is mubah (permissible) based on the Qur'an, hadith, and ijma', with willingness (ridha) as an absolute element. The differences between the four schools are furu'iyyah, related to the formality of harmony, the complementary ijtihad method, and the intensity of the application of sadd al-dzara'i', not to the principle of the ability to buy and sell.

The results of the study also show that the DSN-MUI fatwa in drafting fatwas on sale and purchase contracts is proven to take an eclectic approach (talfiq) that is oriented towards maqashid al-sharia. In terms of the structure of the harmony, DSN-MUI is inclined towards the view of the majority (Shafi'i and Maliki) who stipulate the three pillars. In terms of rejecting hilah ribawiyyah, DSN-MUI follows Maliki and Hambali through the strict application of sadd al-dzara'i'. Meanwhile, in terms of flexibility towards 'urf and recognition of ta'athi for modern transactions, DSN-MUI accommodates Hanafi and Hambali views. The study of khiyar also confirms that the consumer protection mechanism in Islamic jurisprudence far predates the concept of modern consumer protection, and can be creatively adapted to the context of digital transactions.

The relevance of the opinion of the imam of the madhhab to the fatwa of DSN-MUI is multidimensional: it contributes a diverse methodology of ijtihad, provides the principle of consumer protection through the khiyar mechanism, provides a basis for adaptation to modern business habits ('urf), and provides a mechanism for preventing the abuse of contracts through sadd al-dzara'i'. This study also emphasizes that valid sharia economic law products are not only those that meet formal-procedural requirements, but also those that truly embody maqashid al-sharia: protecting property (hifzh al-mal), upholding justice ('adl), and rejecting all forms of tyranny in economic transactions.

This research has limitations that need to be stated. This study is purely normative and based on library research, so the analysis carried out relies on classical fiqh texts and fatwa documents without being supported by empirical dimensions, such as field observations, interviews with the Sharia Supervisory Board, as well as studies on the real practices of buying and selling products in Islamic financial institutions. As a result, the conclusions produced illustrate the conceptual-normative conformity between the fiqh school and the DSN-MUI Fatwa No. 110/DSN-MUI/IX/2017, but it has not been able to ascertain the extent to which this conformity is actually implemented in the practice of sharia economics in the field. This limitation is also a foothold for the following follow-up research agenda.

Based on these limitations, this study recommends three advanced research agendas. First, an empirical study of the extent to which the products of Islamic financial institutions in Indonesia have met the sharia substance desired by the four schools and the DSN-MUI Fatwa, not just formal-procedural requirements. Second, a study on the formulation of sale and purchase contracts for digital assets and artificial intelligence-based transactions from the perspective of madhhab fiqh and maqashid al-sharia. Third, a cross-border comparative study of how fatwa authorities in other Muslim-majority countries respond to similar challenges, to enrich the treasure trove of contemporary sharia economic law enforcement methodologies.

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