



THE ADVANCES OF TRANSFORMATION ON THE FATWA OF THE NATIONAL SYARIAH COUNCIL (DSN) - INDONESIAN ULEMA ASSEMBLIES (MUI) NUMBER 13/DSN-MUI/2000 CONCERNING ADVANCES IN MURABAHAH

^{1*}Ali Akbar, ²Elga Marza Fauziah

Al-Azhary Islamic College Cianjur

E-mail: aliakbar.mh18@gmail.com, elgamf20@gmail.com

Abstract

In the study of fiqh, the advances are called by *urbun*. Mufties have different disagreements about the legal status of the law of *urbun*. Whether it belongs to a lawful or unlawful contract. The majority of muftis said that advance transaction (*urbun*) was legal, but according to Imam Ahmad and his adherents, advance transaction (*urbun*) was legal. The fatwa DSN 13/DSN-MUI/2000 that there is legal transformation in establishing fatwa for advances in *murabahah*. The deal set of the problem was how to cross the opinion of *fuqoha* about the status of the advances transaction (*urbun*), what is the concept of advances in *murabahah* in the Fatwa DSN 13/DSN-MUI/2000 and the DSN-MUI *istinbat* method in establishing a fatwa on advances in *murabahah*, and how is the transformation used by DSN (National Syariah Council) in establishing fatwa on advances in *murabahah*. The process of transforming advances on the fatwa DSN Number 13/DSN-MUI/2000 about the advances of *murabahah*, where is the opinion of the participants of the National Sharia Council (DSN) plenary meeting together with the financial accounting standards of Indonesian accounting on Saturday, 7 Rabi'u awwal 1421 H./16 September 2000 th and the opinion of the participants of the plenary meeting of the national sharia council on the 17 th day of Jumadil Akhir 1421 H./16 September 2000, decide and set a fatwa on advances in *murabahah*. The formation of a fatwa on the national sharia council is one of the planned transformations which means that the transformation of the formation of the national sharia council does not just happen, but through the planning stages. The method used in this research is descriptive method. While the data used is a set of DSN_indonesian ulema assemblies (MUI), especially the national syariah council 13/DSN_MUI/2000 concerning advances in *murabahah*, as well as books fiqh that support in this research as a secondary source. As for the techniques used to collect data is a study of decisions or literature studies. The cross of the *fuqoha* opinions contradicting each other, then the strongest opinion among the two opinions is the opinion that allows the *urbun* transaction. (DSN_MUI) is that there are several transformations such as change transformation, object cultural transformation, transformation of structural and form transformation.

Keywords: Down Payment (*Urbun*), Fatwa of the National Sharia Board – Indonesian Council of Ulama (DSN-MUI) No. 13/DSN-MUI/2000, *Murabaha*, Transformation of Islamic Law, *Istinbat* Method, *Maslahah* (Public Interest)

INTRODUCTION

In Indonesia, there are two types of financial institutions: conventional financial institutions and Sharia financial institutions. A financial institution is a company engaged in financial services, meaning its activities are always related to the financial sector, whether collecting funds, distributing them, and/or providing other financial services.

Conventional financial institutions are financial institutions whose business activities are conducted conventionally. Sharia financial institutions are financial institutions whose business activities are based on Sharia principles.

According to Article 1 number 12 of Law Number 21 of 2008, what is meant by Sharia Principles is: "The Principles of Islamic Law in banking activities are based on fatwas issued by institutions that have the authority to determine fatwas in the field of sharia."

Article 2 of Law Number 21 of 2008 concerning Sharia Banking states that Sharia banking in carrying out its business activities is based on Sharia Principles, Economic Democracy, and the principle of prudence.

From the provisions above, it appears that according to Law Number 21 of 2008 concerning Sharia Banking, the principles of Islamic law to be used in activities carried out by Sharia financial institutions must first be stipulated in a fatwa, which in this case is the Fatwa of the National Sharia Council (DSN) of the Indonesian Ulema Council.

In line with the development of Islamic financial institutions, Islamic scholars are increasingly required to participate in providing input for their advancement. To anticipate this demand, the Indonesian Ulema Council (MUI) established the National Sharia Council (DSN), which is considered an efficient way to coordinate Islamic scholars in addressing issues related to economic and financial matters. Furthermore, the DSN is expected to serve as a driving force for the implementation of Islamic teachings in economic life. Therefore, the DSN plays a proactive role in responding to developments in Indonesian society in the economic and financial fields.

In carrying out their activities, Islamic Financial Institutions must comply with the Fatwas of the National Sharia Council (DSN). One type of activity carried out by Islamic Financial Institutions is financing. Financing practices in Islamic banking have a system that must comply with the provisions outlined in Law Number 10 of 1998 concerning Banking, namely, they must be guided by sharia principles, namely the principles of mudharabah, musyarakah, murabahah, and ijarah.

One of the products offered by Sharia financial institutions, particularly financing institutions, is consumer financing. One of the contracts used in this financing is the murabahah contract. Murabahah is one of the most popular financing products in Sharia financial institutions. Besides being easy to calculate for both customers and management, this product shares several (but not fundamental) similarities with the credit system in conventional banking. However, in principle, murabahah differs significantly from interest rates in conventional banking.

Murabahah contracts are one of the various types of buying and selling. In simple terms, a murabahah contract is a sale and purchase of certain goods, where the

The validity of murabahah transactions is stipulated in the National Sharia Council (DSN) Fatwa Number 04/DSN-MUI/IV/2000 concerning murabahah. More specifically, the National Sharia Council (DSN) Fatwa also recognizes an institution similar to 'urbun, known as a down payment. This down payment is required in murabahah contracts between a Sharia financial institution and its customer. The

provisions are outlined in point 6 of the second ruling of DSN Fatwa No. 13/DSN-MUI/2000.

It seems that the concept of buying and selling 'urbun stated in the Fatwa of the National Sharia Council (DSN) No.13/DN-MUI/2000 still uses general arguments regarding buying and selling, both in the form of the Koran and the Hadith of the Prophet and does not include specific arguments regarding the down payment. In fact, in the fiqh literature there is much discussion regarding the status of buying and selling 'urbun (advance payments) due to the two contradictory hadiths which the author has mentioned above.

Therefore, the author tries to research the opinions of the jurists regarding the status of buying and selling 'urbun and examine other arguments which are the basis for determining the legal status of buying and selling 'urbun, as well as analyzing the factors in the emergence of Fatwa of the National Sharia Council (DSN) No. 13/DN-MUI/2000 concerning Down Payments in Murabahah which seems to still be a topic of discussion among fuqaha regarding its legal status and analyzing the transformation process used by the National Sharia Council (DSN) in determining the fatwa regarding down payments in murabahah.

Penulisan artikel ini dititikberatkan kepada proses Transformasi Uang Muka (urbun) Pada Fatwa DSN Nomor 13/DSN-MUI/2000 tentang Uang Muka dalam Murabahah. Dimana pendapat peserta rapat pleno Dewan Syariah Nasional bersama dengan Dewan Standar Akuntansi Keuangan Ikatan Akuntan Indonesia pada hari Sabtu, tanggal 7 Rabi'u awwal 1421 H./16 September 2000 dan pendapat peserta rapat pleno Dewan Syariah Nasional pada hari sabtu, tanggal 17 Jumadil Akhir 1421 H./16 September 2000, memutuskan dan menetapkan Fatwa tentang Uang Muka dalam Murabahah. Terbentuknya Fatwa Dewan Syariah Nasional (DSN) adalah salah satu bentuk transformasi yang direncanakan maksudnya bahwa transformasi terbentuknya Fatwa Nomor 13/DSN-MUI/2000 tentang uang muka dalam Murabahah ini tidak terjadi begitu saja, tetapi melalui tahapan-tahapan perencanaan. Dimulai dari wacana dikalangan para ahli ekonomi islam dalam bentuk diskusi dan seminar, penelusuran oleh para ulama dan sampai kepada terbentuklah Fatwa Dewan Syariah Nasional (DSN).

1. Pengertian Transformasi

Transformasi secara etimologis berarti perubahan bentuk, rupa, format, dan sifat. Ia merupakan struktur atau rangka (framework) untuk memahami proses perubahan yang sedang terjadi pada masyarakat, baik lokal maupun global. Perubahan ini bisa secara keseluruhan atau bisa juga bagian tertentu saja. Dalam pengertian lain transformasi merupakan perubahan yang mendalam sampai keperubahan nilai kultular. Faktor yang memicu proses transformasi adalah pendidikan, teknoogi, nilai-nilai kebudayaan gerakan sosial, dan idiologi.

Transformasi bisa dalam dua bentuk: pertama, direncanakan (planned change), dan kedua, tidak direncanakan (unplanned change). Ia meliupti dua hal, transformasi struktural dan transformasi kultural. Transformasi struktural berkaitan dengan perubahan struktur dan organisasi masyarakat berikut lembaga-lembaganya, sementara transformasi kultural menyangkut perubahan norma, nilai, pandangan, serta prilaku. Dengan demikian, transformasi disebut juga perubahan social yang

meliputi semua system yang digunakan manusia untuk mengatur masyarakat, baik system politik, sosial, ekonomi, intelektual, religious, dan psikologis.

Berdasarkan atas teori transformasi diatas kaitanya dengan transformasi teori fiqh muamalah kedalam peraturan perbankan syariah, maka transformasi yang terjadi adalah transformasi sebagian, terjadi secara evolusi, direncanakan dan menyangkut obyek kultural serta struktural.

The meaning of partial and evolutionary is that the concept of muamalah fiqh that is transferred is only a certain concept and takes place in an evolutionary manner. Law No. 7 of 1992 concerning Banking only contains the term "credit" and is contained in Article 1 paragraph (12), then Law No. 10 of 1998 concerning amendments to Law No. 21 of 2008 concerning Sharia Banking. Law No. 10 of 1998 contains bank operations based on sharia principles such as financing, mudharabah, musyarakah, murabahah, ijarah, and ijarah wa iqtina' as implied in Article 1, paragraphs (3), (4), (12), and (13) as well as Articles 7 and 8. More completely, the rules of sharia banking are contained in Law No. 21 of 2008. The evolutionary process in the transformation referred to is the same as the theory of al-tadarruj (gradual) in Islamic law.

Planned transformation means that the transformation of the concept of Islamic jurisprudence (fiqh muamalah) does not occur spontaneously, but rather through stages of planning. It begins with discourse among Islamic economists in the form of discussions and seminars, research by scholars, discussions at the executive and legislative levels, and finally, enactment. Cultural and structural transformation means that the transformation involves cultural objects, namely values, norms, behaviors, and perspectives. The values and norms contained in banking regulations undergo changes in the form of additions and shifts, resulting in changes in public perceptions of banking.

a. Stages of transformation

1) Change or Modify (how to alter)

The process of change or modification begins with a shift in society's understanding of the values they currently adhere to and adhere to. Changes are made when society perceives these rules and values as outdated and irrelevant to their lives. Changes can take two forms: additions and subtractions from existing and enforced rules. In the case of banking regulations, there have been additions and subtractions to the values they contain. This is because society perceives these regulations as incapable of addressing the current economic problems facing not only Muslims but society in general.

2) Moving (how to transport)

Other values found in various sources are reassigned and used in standard regulations that must be adhered to by society. This is similar to what occurs in banking regulations. The theory of Islamic jurisprudence (fiqh muamalah) previously contained only in classical fiqh books has become the economic rule outlined in Islamic banking regulations.

3) Storing or Preserving (how to store)

This means that the currently enforced regulations are not completely replaced; rather, the relevant portions are retained. This theory aligns with Islamic legal theory, which explains that Islamic law maintains and preserves good old theories while developing new, better ones. Therefore, regarding banking regulations, they are not

completely replaced but rather new regulations are inserted, deemed better and more functional. This new theory is the theory of Islamic jurisprudence (fiqh muamalah).

4) Check or Evaluate (how to inspect)

This means that existing regulations are constantly being evaluated and reviewed. Therefore, the new banking regulations currently in effect are the result of an evaluation of the old ones.

c. Factors in the process of drafting legislation with the process of adaptation and harmonization of fiqh muamalah into Islamic banking regulations.

The significance between transformation theory, models of change and all their characteristics, the process of drafting legislation with the process of adaptation and harmonization of fiqh muamalah into Islamic banking regulations involves six factors;

1). The constitution used as a reference

The constitution used as a reference in the preparation of Law of the Republic of Indonesia No. 10 of 1998 is Pancasila, Basic Law 45 Article 5 paragraph (1), Article 20 (1), Article 23, Article 33, and Presidential Instruction No. 15 of 1970 concerning procedures for preparing draft laws and draft government regulations of the Republic of Indonesia. The constitutional references for Law No. 21 of 2008 concerning Islamic banking are first, the 1945 Constitution Articles 20 and 33; second, Law No. 7 of 1992 concerning banking (State Gazette of the Republic of Indonesia of 1992 No. 31, supplementary description of the State of the Republic of Indonesia No. 3472). As amended by Law No. 10 of 1998 (State Gazette of the Republic of Indonesia of 1998 No. 182), supplementary description of the State Gazette of the Republic of Indonesia No. 3790); third, Law No. 23 of 1999 (State Gazette of the Republic of Indonesia Year 1999 No. 66 Supplement to the State Gazette of the Republic of Indonesia No. 3843) as amended by Law No. 3 of 2004 (State Gazette of the Republic of Indonesia Year 2004 No. 7, Supplement to the State Gazette of the Republic of Indonesia No. 4357); fourth, Law No. 24 of 2004 concerning the Deposit Insurance Agency (State Gazette of the Republic of Indonesia Year 2004 No. 96, Supplement to the State Gazette of the Republic of Indonesia No. 4420); fifth, Law No. 40 of 2007 concerning Limited Liability Companies (State Gazette of the Republic of Indonesia Year 2007 No. 106, Supplement to the State Gazette of the Republic of Indonesia No. 4756).

2). Legal Policy

The legal policy of drafting Law No. 10 of 1998 and Law No. 21 of 2008 is related to the government's political will in the economic sector and the basis for consideration in drafting these laws.

3). Legislation Program

The legislative program or taqnin in the preparation of this law involves three things; first, the preparation process in the form of preparing a draft law in the form of design and preparation within the government after previously conducting an in-depth study; second, the process of obtaining approval from the people's council resulting from the discussion process in the council of three sessions, the ratification process (by the president) and promulgation by the Minister of State or Secretary of State on the orders of the president. This legislative process is carried out by state administrators, namely the legislative and executive.

4). Raw Materials

The raw materials or sources of Law No. 10 of 1998 and Law No. 21 of 2008 are international law (conventions), Western law, and customary law. Islamic law, specifically, is fiqh muamalah. For the purposes of this research, the author focuses more specifically on fiqh muamalah.

5). Legislative Products

The legislative products are in the form of statutory regulations, namely Law No. 10 of 1998 and Law No. 21 of 2008, which in Islamic jurisprudence terms have become qanun.

6). Community Aspirations

Aspirations arise from changes in society, particularly among the Indonesian Ulema Council (MUI), the Indonesian Muslim Scholars Association (ICMI), Islamic organizations, political parties, and individuals. Implementation of the Qanun can be structural, cultural, or a combination of these, with the Islamic economic community (MES) being established on March 21, 2001. Public aspirations can take the form of tendencies and desires, or they can also be demands from the Indonesian Muslim community.

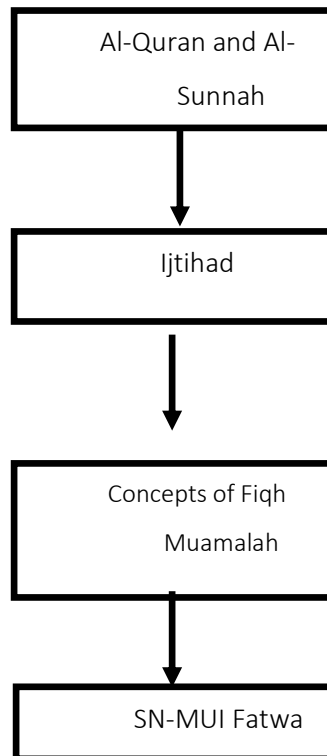
The sequence and stages of the transformation of Islamic jurisprudence into law begin with Al-Shari'a, as defined by the Bible and the Sunnah. Al-Shari'a is the foundation, basis, and reference for jurists in understanding, exploring, and establishing the law of an event. The products of this process of thought and understanding are manifested in the form of Islamic jurisprudence, fatwas, qanuns, and qadhas; these four types of products have distinct characteristics. Islamic jurisprudence is general and encompasses all aspects of law. It is ijtihadi in nature because it is derived from the in-depth thinking and reasoning of the jurists. Therefore, among its characteristics are mukhtalaf fih and its lack of binding force.

Fatwa means advice, guidance, and response to legal events. The fatwa issuer (mufti) in responding to legal events is not always based on the government, individuals, groups, or institutions, but can also be due to the initiative of the mufti itself. Therefore, the fatwa is case-specific and is a response to the question of the fatwa requester (mustafti). Fatwa acts as an uninterrupted source that provides the opportunity for the law to enrich its material. Therefore, it can represent the newest or oldest material that is relevant to the needs of society that are constantly developing and changing from time to time. The characteristics of the fatwa are: (a) In Islam, the fatwa institution is an institution that is free from government institutions and political intrigue; (b) Fatwas issued by the mufti are the main source for elaborating and expanding the works of furu' (fiqh); (c) Fatwas are universal and can be applied to all the same cases. However, the fatwa given to him, because the fatwa of a cleric in one place can be different from the fatwa of a cleric in another place even for the same case. Therefore, fatwas are dynamic, they are a response to new developments that occur in society, even though the contents of the fatwa itself are not necessarily dynamic.

Qanun is a legal regulation in an Islamic state formulated, specifically by jurists and other experts. In Indonesia, legal regulations are formulated by state administrators, namely the executive and legislative branches. They have binding and coercive power because they are the result of collective consensus.

Qadha A religious court decision. It is more specific than fiqh and tends to be dynamic because it only covers certain aspects according to the cases faced by the community. In terms of legal force, it is more binding, especially for the parties in a dispute. The shift and/or change from Al-Shari'a to fiqh, from fiqh to fatwa, from fiqh to qanun, and then to qadha, or sequentially from Al-Shari'a to fiqh to fatwa to qanun and then to qadha, is a process of transformation. These fiqh values subsequently underwent a transformation when they became the subject of Law No. 21 of 2008 concerning Islamic banking.

Figure 2: Framework for the Formation of Fatwa



2. Definition of urbun (down payment)

a. According to Hisam ad-Din al-Turfawi, 'urbun is:"

First, etymologically, Ibn Mundzir said: "arropa, wa arbana, wa huwa urban, wa 'urbun, wa 'arbun." It is said that it is named as such because it serves as a down payment in a sale and purchase agreement. It is a repair and removal of damage so that it cannot be owned by another buyer. Second, terminologically, it has two meanings:

First: someone buys merchandise and hands over some of the money to the seller, if he makes the sale and purchase he will complete the payment, if he does not make the sale then he (the seller) returns what he received.

Second: A person buys merchandise and hands over a sum of money to the seller, if the buyer carries out the sale and purchase transaction then the buyer will pay in full, and if the buyer does not carry out the sale and purchase, then the down payment belongs to the seller and the buyer does not ask for the down payment back.

What is meant by buying and selling 'urbun is that someone buys an item and then pays one dirham or a small part of the price of the item to the seller, with

the condition that if the sale and purchase transaction continues then the one dirham that has been paid will be counted as part of the price of the item, however, if the sale and purchase transaction does not take place, then the one dirham that has been paid will become a gift (gift) to the seller.

b. According to Sa'di Abu Jaib:

"Urbun: urbun. Urbun is a buyer who gives priority to payment and will pay it off if he carries out a sale and purchase transaction. If he does not carry out a sale and purchase transaction, then the money that comes first becomes the property of the seller.

c. According to Malikiyah, Hanafiyah, Syafi'iyah and Hanabilan

urbun is: Someone buys something, or rents something, and gives some money or ujroh to the buyer. Then the buyer says to the seller: "If I buy the goods, then I will complete the payment, and if I don't then it is yours and I will not take it back from you.

d. According to Mau'suah al-Fiqhiyyah al-Kuwaitiyyah urbun is:

Al-'arabun by using two fathah such as halazun, wa al-urbun wizan ushfur, lughotun fih. Al-urban with dhommah lughatun tsalits with wazan (scales) of sacrifice. As for using fathah and breadfruit, it is lahnun (it is not correct to read it) there is no discussion in it according to the Arabs. That is mu'arrab. Experts provide linguistic interpretations of what is contracted in buying and selling.

e. According to fiqh terms, a buyer buys something and hands over to the seller one dirham or more. If he takes the merchandise from the seller, then he (the buyer) will complete the payment, and if the buyer does not take the (merchandise) then the money that the buyer has given to the seller will belong to the seller.

f. According to Hisan al-Din 'Afanah 'urbun is:

Bai al-'urbun is someone (the seller) selling something and taking from the buyer a certain amount of money and it is called 'urbun to strengthen the transaction relationship between the two with the real principle that if the buyer carries out the contract then it will complete the payment of the 'urbun, and if the buyer cancels the transaction then the 'urbun (down payment) becomes the property of the seller.

g. According to 'Athiyab ibn Muhammad Salim 'urbun is:

It is said that *ba'i al-'urban* or *ba'i al-'urbun*, *al-'urbun* according to community culture is: a buyer comes to the owner of the merchandise (the seller), and he (the buyer) wants the merchandise, but the buyer does not have enough money to buy the merchandise, so the buyer says to the seller: "I don't have complete money, but I postponed the payment until tomorrow (example), so I come to you with complete money, then the seller says: "I'm worried about you leave and not come back, and sometimes another customer will come who wants the merchandise and I am unable to sell it, therefore I enter into an agreement with you, but give you a down payment ('urbun) as collateral until your arrival, then the buyer says, "This is 'urbun (down payment), the price of the goods is one hundred, this is ten money for the down payment, if I come to you with the complete amount of money then I will take the merchandise and I will pay the rest and the rest will be ninety.

h. According to Fadhilah Shaykh al-Utsaimin 'urbun is:

Prioritize payment when a sale or purchase transaction or rental process occurs and the money paid is a down payment, if the transaction is carried out then the down payment becomes part of the transaction money or rental money, and if the transaction does not proceed then the down payment belongs to the owner of the yard (in a rental transaction) or to the seller (in a sale or purchase transaction).

- i. According to the Supreme Ulema Organization of the Kingdom of Saudi Arabia, 'urbun is:

A buyer buys merchandise and hands the seller a sum of money as a down payment. If the buyer takes the merchandise, the buyer completes the payment. If the buyer does not complete the sale and purchase transaction, the down payment belongs to the seller.

- j. According to Abu Umar Yusuf ibn Abdullah ibn al-Bir al-Namroi al-Qurthubi 'urbun is: A person buys a slave or a bondman or rents livestock then says to the seller or lessor, "I give you one dinar or one dirham or more or less than that, if I take the merchandise or I ride the livestock, then what I give as money is part of the payment or part of the livestock rental money, and if I leave the merchandise and livestock then what I give as a down payment to you, then it belongs to you (the seller).

- k. According to Ibn Atsir 'urbun is:

Someone buys merchandise and hands over a sum of money to the seller. If the buyer carries out the sale and purchase transaction, the buyer will pay in full. If the buyer does not carry out the sale and purchase, the down payment belongs to the seller and the buyer will not ask for the down payment back.

- l. According to Al-Manawi, 'urbun is:

'UrbanIt can also be said to be 'urbun', that is, a buyer hands over something to the seller, then if the buyer likes the sale and purchase transaction then the down payment handed over by the buyer to the seller becomes part of the payment money, and if the buyer does not continue the sale and purchase transaction, then the down payment is a gift from the buyer to the seller.

- m. According to Dr. Abdul Adzim Abu Zaid,

'urbunis: A sum of money paid by the buyer to the seller so that the merchandise is held and not sold by the seller to another party, and if the transaction is carried out then the down payment that has been paid is included as part of the price, and if the transaction is not carried out then the down payment that has been paid by the buyer to the seller becomes the property of the seller.

From several definitions put forward by experts using different wordings above, it can be concluded that what is meant by ba'i al-'urbun (down payment) is an amount of money paid by the buyer/prospective buyer to show that he is serious about his order. If the buyer then agrees to the ordered item, then a sale and purchase transaction is formed and the down payment is part of the agreed price of the ordered item (asset). If the buyer then refuses to buy the asset, then the down payment will be forfeited and becomes the property of the seller.

RESEARCH METHODS

1. Research Method

The method used in this research is descriptive. According to Sugiyono, descriptive research is research conducted to determine the value of independent variables, either one or more (independent) without making comparisons or connecting one variable to another. In this study, the author attempts to describe the National Sharia Council (DSN) Fatwa No. 13/DN-MUI/2000 concerning Down Payments in Murabahah.

2. Data Type

The type of data used in this study is qualitative data. According to Suhasimi Arkunto, qualitative data is data described in words or sentences separated according to categories to draw conclusions, including:

- a. Differing opinions from the fuqaha regarding the law of buying and selling 'urbun?
- b. The concept of down payment in murabahah in DSN Fatwa Number 13/DSN-MUI/2000 and the *istinbatul ahkam* method of DSN Fatwa NO 13/DSN-MUI/2000 regarding down payment in Murabahah?
- c. What transformation process does the National Sharia Council (DSN) use in issuing a fatwa on down payments in murabahah?

3. Data sources

The data sources used in this study are both primary and secondary. The primary data source is the Fatwa of the National Sharia Council (DSN) of the Indonesian Ulema Council (MUI) No. 13/DN-MUI/2000 concerning Down Payments in Murabahah. The secondary data sources are fiqh books and literature relevant to the focus of this study.

4. Data Collection Techniques

The technique used in data collection was a literature review. A literature review is a critical analysis of specific texts or sources. This literature review is used to obtain theories and opinions from jurists that can serve as a basis for this research and allow for general conclusions to be drawn.

5. Data Analysis

The data analysis in this study is carried out by: First, collecting the necessary data from sources suspected of having it. Second, reviewing and classifying the opinions of the fuqaha. Third, analyzing each opinion of the fuqaha. Fourth, selecting the strongest opinion from various opinions. Fifth, the transformation process used by the National Sharia Council (DSN) in issuing a fatwa on down payments in murabahah.

RESULTS

A. Differing opinions of the fuqaha regarding buying and selling al-'urbun

Islamic jurists differ on the legality of buying and selling 'urbun. The majority of jurists believe that buying and selling 'urbun is prohibited and invalid. However, according to the Hanafi school, buying and selling 'urbun is only considered *fasid*. Meanwhile, scholars other than the Hanafi school of thought consider this transaction void. Imam Ahmad is of the opinion that this transaction is permissible and not considered void.

The arguments used are as follows:

1. Opinion that prohibits buying and selling 'urbun

مَنْ قَالَ يَتَحَرِّمُ بَيْعَ الْعُرْبُونِ وَهُمْ جَمَاهِيرُ
وَأَبُو حَنِيفَةَ وَأَصْحَابِهِ

Those who are of the opinion that buying and selling 'urbun is haram are the majority of scholars, namely Imam Malik, Syafi'i, Abu Hanifah and his Companions.

a. Maliki school of thought

According to the Maliki school, the sale and purchase of 'urbun falls under the category of invalid transactions. They argue this using the hadith prohibiting the sale and purchase of 'urbun. The wording of the hadith is as follows:

,God willing, God willing, God willing, God willing God willing, God willing, God willing
God willing, God willing, God willing, God willing. God بُن God willing, God willing
God willing, God willing, God النَّبِيِّ willing, God willing, God willing, God willing
willing, God willing, God willing

"Has told you al-Fadl ibn Ya'kub al-Rukhami, has told us Habib ibn

Abi Habib Abu Muhammad Katib (writer) Malik ibn Anas, has told us Abdullah ibn Amir al-Aslami from Umar ibn Syu'aib from his father from his grandfather that the Messenger of Allah SAW forbade the buying and selling of 'urbun (using a down payment).

Abu Umar said that Imam Malik had an opinion regarding the sale and purchase of 'urbun, namely a person buys a slave or a bondman or rents livestock then he (the buyer or renter) says to the seller or to the owner of the livestock that I give you one dinar or one dirham or more than that, or less than that, that if I take your merchandise or I ride your livestock then what I give you is part of the price of the merchandise or is part of the rent, if I leave the merchandise (not continuing the sale or rent transaction) then what I have given you is for you. That is a void transaction without any compensation.

قَالَ أَبُو عَمَرَ : عَلَى قَوْلِ مَالِكٍ هَذَا جَمَاعَةُ فُقَهَاءِ الْأَمْصَارِ مِنَ الْحِجَازِيِّينَ وَالْعِرَاقِيِّينَ مِنْهُمْ الشَّافِعِيُّ وَالْثَمَّ وَاللَّيْثُ ؛ لِأَنَّهُ مِنْ بَيْعِ الْقِمَارِ
وَالْعَزْرِ وَالْمَخَاطَرَةِ وَأُكْلِ الْمَالِ بَغَيْرِ عَوَضٍ وَلَا هَبَةٍ ؛ وَذَلِكَ بَاطِلٌ

Abu Umar said: Imam Malik's opinion is supported by the congregation of the fuqaha Anshor, from among the fuqaha of Hijaz, Iraq, they are As-Syafi'i, Tsauri, Abu Hanifah, Al-'Auza'i and Laits, according to them that buying and selling 'urbun is a transaction that contains gambling, gahrar (there is uncertainty), betting, and consuming other people's property without compensation and without any gift, and that is included in transactions that vanity.

Imam al-Qurthubi said in his tafsir (Jami' Al-Ahkam al-Qur'an):

What is included in the category of consuming other people's property in a wrong way/without any right (in the letter An-Nisa: 29) is the sale and purchase of 'urbun (using a down payment), namely the buyer takes from the seller the merchandise or rents livestock and the buyer or renter gives one dirham or more, and if the buyer or renter continues the sale and purchase or rental transaction then some of the money that has been given by the buyer or renter is part of the purchase or rental price, and if the buyer leaves the merchandise or rented livestock, then what I (the buyer/renter) give is for you (the seller/owner of the animal).

This transaction is not justified and not permitted by the majority of the Anshor fuqaha from the Hijaz and Iraq because it is included in the category of transactions

that contain gambling, gharar, betting and consuming other people's property in a false way without any compensation or gift, and it is a false matter according to the agreement of the ulama ('ijma). And 'urbun is a fasakh contract if it occurs before or after the goods are in hand, and returning the merchandise if a transaction has occurred, and if the time has passed then returning it on the day the goods are in hand.

b. Hanafi school and rational school.

In the book *Fatawa al-Fasadi*, various types of buying and selling fasid are mentioned, namely bai' al-'urban or it can also be said al-'irban. What is meant by buying and selling 'urbun is that a person buys merchandise, then he (the buyer) hands over to the seller one dirham, so that if the buyer takes the merchandise then one dirham is part of the payment price, and if (the buyer) does not take the merchandise then he returns the one dirham.

c. Shafi'i school of thought

Imam An-Nawawi said in the book *al-Majmu'Syarah al-Muhadzab* after explaining the definition of urbun etymologically, that what is meant by buying and selling 'urbun terminologically is someone buying something and giving one dirham or several dirhams to the seller while saying: if we carry out the sale and purchase transaction then what I give is included in the payment price, if the transaction is not carried out then it becomes a gift to you.

Our friends say: if the statement of this condition occurs during a buying and selling transaction then it is considered a false sale and purchase. If the words are said before the sale and purchase transaction occurs and are not said at the time of the sale and purchase agreement, then that is considered a valid (legitimate) sale and purchase, and this is the opinion of our madhhab. The author has explained this problem in his explanation, but it is not directly contained in his *al-muhadzab* book.

According to the Islamic school of ulama, buying and selling 'urbun is, as we have mentioned, our school of thought considers buying and selling 'urbun to be a false transaction if it is a condition of the contract. Narrated by Ibn Mundzir from Ibn Abbas, Hasan, Malik, and Abu Hanifah, he said: this is similar to Ash-Shafi'i's opinion. he said: it was narrated from Ibn Umar and Ibn Sirin who permitted the buying and selling of 'urbun, he said: that it was narrated from Nafi 'ibn Abd al-Harits that Umar had bought a place in Mecca (to be used as a prison) from Sofwan ibn Umayyah for 4,000 (four thousand) dirhams, if Umar agreed then the sale and purchase was carried out. And if not, Shofwan gets 400 (four hundred) dirhams which is used as a down payment.

Ibn Mundzir said: Hushul ibn Hanbal mentioned the hadith of Umar while saying, what more can I say? This is what Ibn Mundzir has mentioned. Al-Khatibi said: the ulama differ in their opinions regarding the legal permissibility of buying and selling 'urbun, Malik and Syafi'i consider that buying and selling 'urbun is a void transaction based on the hadith of the Prophet which prohibits such transactions. Because in it there are conditions that are false, gharar, and consuming other people's property in a false way. Likewise, rationalists consider this transaction to be a false transaction. Although Umar allowed it and Imam Ahmad ibn Hanbal had the same opinion as Umar. Wallahu'alam.

The Asy-Syafi'i school of thought also believes that buying and selling 'urbun is a form of transaction that is makruh.

2. Opinions that allow buying and selling 'urbun

a. From among the friends of Abdullah ibn Umar ibn Khattab

Ibn Abi Syaibah said in his Mushanaf book. It has been told to us by Yazid ibn Harun, from ibn Abi dza'bi, from al-Zuhri, from Hamzah ibn Abdullah ibn Umar ibn Khattab, he said: "We bought clothes from Abdullah ibn Umar, that those who wanted to had to pay the deposit with one dirham, he ordered us and did not forbid us."

b. From the Tabi'in Muhammad ibn Sirin

Imam Abi Syaibah issued a history from his Mushanaf book. It has been told to us by Yazid, rai Hisham, from Ibn Sirin, that he is of the opinion that there is nothing wrong with someone giving an advance payment to a gamram seller, saying, "If I come then it will be for that and that (I will complete the payment) if not then it will be yours."

c. From among the ulama and fatwas The school of thought of Imam Ahmad ibn Hanbal

The most correct thing in this madhhab is that it considers buying and selling 'urbun legal and permissible. Imam Ahmad said: there is nothing wrong with buying and selling 'urbun because that was done by Umar and he permitted the transaction. Imam al-Mawardi said in the book al-Inshaf, what is most true in this madhhab is that actually buying and selling 'urbun is legal (permissible). And that is the opinion of most friends. And this explanation has been stipulated in al-wajiz (summary) and others. This has been explained in al-muharar, al-talkhis, syarah, furu', al-mustaw'ab and so on.

Imam Ahmad ibn Hanbal is of the opinion that this buying and selling is permissible. This is based on several hadiths, including the hadith narrated by Abdurrazak in his Mushanaf book, from Zaid ibn Aslam that, "he once asked Rasulullah SAW regarding the down payment that was handed over in the sale and purchase, then Rasulullah made it legal", and the hadith narrated by Nafi' ibn Abd al-Harits, "Nafi' bought a prison house for Umar from Shafwan ibn Umayyah for four thousand dirhams. If Umar agree, then the sale and purchase will take effect, but if Umar does not agree then Shafwan has the right to take four hundred dirhams."

Imam Ahmad ruled the hadith narrated regarding down payment sales as weak. However, today, down payment sales have become the basis of commitment in business relationships, serving as an agreement to compensate the other party for the risks of waiting and business failure.

Apart from that, he also relies on qiyas with a form of sale that is agreed to be halal, namely that it is okay if a buyer doesn't like a commercial item to return the item and return something with it. Ahmad said, "this still has one meaning".

The following are the opinions of individual ulama and a collection of fatwas that allow buying and selling 'urbun.

1). Ibn Qudamah

Ibn Qudamah said in the Book of al-Mughni: Imam Ahmad is of the opinion that this kind of buying and selling was once carried out by Umar RA. There is a history from Ibn Umar, that he allowed it. Ibn Sirin said, "That may be done." Sa'id bin al-Musayyib is of the opinion that something like this is permissible to do if he doesn't like the item and returns it and pays a certain amount of money to the seller. Ahmad commented on Ibn Sa'id's opinion, "this is the same as 'urbun".

2). Ibn Qayyim

Ibn Qayyim said, in the History of Maiymunah, it is not legal to carry out 'urbun' buying and selling transactions. In the history of al-Asyram, it has actually been said to him that the Prophet prohibited the buying and selling of 'urbun. So he said, this hadith cannot be used as proof (because the hadith is weak). And Imam Ahmad argued with what was narrated by Nafi' ibn Abd al-Harits that he once bought a house for the prison that Umar ibn Khattab ordered from Shafwan bin Umayyah. If Umar agrees, then he will continue the sale and purchase, but if not then Shofwan will get such and such payments." Al-Asyram said, said, I said to Ahmad, "Do you confirm this history? He answered, "What else can I say, this is Umar's opinion."

The Hanabilah scholars are of the opinion that buying and selling 'ubun' is not a way of consuming wealth in vain, because the seller takes a down payment due to the waiting period and waiting period. And he does not sell his merchandise to other parties. The waiting period and waiting period carried out by the seller until the buyer actually carries out the sale and purchase. So this does not fall into the category of consuming other people's property in vain. This is done for the benefit of the seller due to a setback during the waiting period. Ulama Hanabilah said, "Indeed, the principle in muamalah is that it is permissible (halal), and this opinion is the most correct opinion.

3). Wahbah al-Zuhaili

وَيَوْي وَأَخَذَهُ عَمَلًا بِالْعُرْفِ؛ لِأَنَّ الْأَحَادِيثَ الْوَارِدَةَ فِي شَأْنِهِ عِنْدَ الْقَرِيبَيْنِ لَمْ تَصِحَّ.

In my opinion, buying and selling using the 'urbun system is legal and halal, carried out based on 'urf (developed traditions). Because, none of the hadiths narrated in this case of buying and selling, whether stated by the pro or con parties, are authentic hadiths.

In another book, Dr. Wahbah al-Zuhaili expressed a similar opinion that Imam Ahmad ibn Hanbal permitted buying and selling with a down payment, because it was considered to be a human 'urf in addition to being a necessity. This was done by what was narrated from Nafi' ibn Abdil-Harits; that he bought a prison house from Shafwan ibn Umaiyyah for Umar ra at a price of 4,000 dirhams, then if Umar agreed, then the sale and purchase was completed and if Umar did not agree then the down payment of 400 dirhams belonged to Shafwan". damage suffered by others as a result of non-working conditions and waiting periods.

From the explanation above, it can be concluded that the strongest opinion regarding the law on sales transactions using down payments ('urbun) is permissible, considering the two hadiths used by both parties, both the pros and cons cannot be used as evidence because these two hadiths *weak* (weak). And the original law in muamalah (one of which is buying and selling) is permissible as long as there is no argument that prohibits it.

1. Concept of DSN Fatwa Number 13/DSN-MUI/2000 concerning down payment in murabahah

In line with the development of Islamic financial institutions, Islamic scholars are increasingly required to participate in providing input for their advancement. To anticipate this demand, the Indonesian Ulema Council (MUI) established the National Sharia Council (DSN), which is considered an efficient institution for coordinating Islamic scholars in addressing issues related to economic and financial matters.

Furthermore, the DSN is expected to serve as a driving force for the implementation of Islamic teachings in economic life. Therefore, the DSN plays a proactive role in responding to developments in Indonesian society in the economic and financial fields.

The Indonesian Ulema Council (MUI) has formed an institution called the National Sharia Council (DSN-MUI) which is tasked with issuing fatwas to provide input to regulatory parties for Sharia Business Institutions (LBS), including Sharia Financial Institutions (LKS).

As explained above, one of the primary duties of the National Sharia Council (DSN) is to issue fatwas in the field of sharia economics. Fatwas issued by the DSN serve as guidelines for sharia financial institutions. These fatwas are issued upon request or inquiry from individuals or institutions seeking sharia-compliant legal certainty regarding the issues they face. Each fatwa issued by the DSN is based on the goal of ensuring that all sharia financial operations comply with sharia principles.

Fatwas issued by the DSN are not only used as a guideline by all Islamic financial institutions, but also serve as a source of material for determining the legality of their operations. In other words, the fatwas issued by the DSN constitute a source of material included in the Compilation of Islamic Economic Law (KHES).

One of the fatwas issued by the DSN concerns down payments in Murabahah. Murabahah, as defined in Law Number 21 of 2008 concerning Sharia Banking, is a type of financing. The Sharia Banking Law defines financing as the provision of funds or equivalent receivables.

The DSN-MUI Fatwa on Down Payments in Murabahah is stipulated under number 13/DSN-MUI/IX/2000. In the general provisions it is explained that (1). In a murabahah financing contract, Islamic Financial Institutions (LKS) are permitted to request a down payment if both parties agree. (2). The amount of the down payment is determined based on the agreement. (3). If the customer cancels the murabahah contract, the customer must compensate the LKS from the down payment. (4). If the down payment is smaller than the loss, the LKS can request additional payments from the customer. (5). If the amount of the down payment is greater than the loss, the LKS must return the excess to the customer.

If one party fails to fulfill its obligations or if a dispute arises between the two parties, the matter shall be resolved through the Sharia Arbitration Board after no agreement is reached through deliberation. This fatwa is effective as of the date of its issuance, with the provision that if errors are later found, they will be amended and refined accordingly.

In the DSN-MUI fatwa on Down Payments in Murabahah, there are several arguments used as reasons: two verses of the Qur'an, two hadiths, and two rules of Islamic jurisprudence. In addition, it is also stated that down payments in sales contracts are permissible (jawaz).

Previously, we presented the "legal" considerations in the form of arguments used by the DSN-MUI, including verses from the Qur'an, the Prophet's Hadith, Islamic jurisprudence principles, and the consensus of scholars regarding the permissibility of down payments in sales. The arguments used by the DSN-MUI in issuing a fatwa on Down Payments in Murabahah are as follows:

1. Word of Allah QS. Al-Baqarah (2): 282:
"O you who believe, if you don't offer charity in cash for a specified time, you should write it down..."
2. Word of Allah QS. Al-Maidah (5): 1:
"O you who believe, fulfill the aqads..."
3. Hadith of the Prophet Narrated by Tirmidhi from 'Amr bin 'Auf:
 حَرَّمَ خَالِدٌ ۙ . God willing, God willing, God willing, God willing, God willing
"Peace can be made between Muslims unless it is a peace that prohibits what is halal or makes lawful what is haram; and Muslims are bound by conditions that prohibit what is halal or make lawful what is haram."
4. Hadith of the Prophet narrated by Ibn Majah from 'Ubadah bin Shamit, narrated by Ahmad from Ibn 'Abbas, and Malik from Yahya:

لَا ضَرَرَ وَلَا ضِرَارَ

"You must not endanger yourself and you must not endanger others."

5. Fiqh Rules:
 God willing, God willing, God willing, God willing, God willing. God willing
"Basically, all forms of mu'amalat may be carried out unless there are reasons that prohibit it."

الضَّرَرُ يُزَالُ

"The danger (heavy burden) must be removed"

6. Scholars agree that asking for a down payment in a sale and purchase agreement is permissible (jawaz).

The basis for the juridical considerations carried out by the DSN-MUI in determining the fatwa regarding down payments in murabahah still uses general arguments, whether in the form of verses from the Koran or prophetic hadiths. As explained above, the concept of down payment, which in the study of jurisprudence is called *urbun*, is a concept that has currently generated conflict among the jurists. There are *fuqaha* who are pro towards the *urbun* concept, and there are also those who are against it. The parties who consider buying and selling *urbun* to be a false and forbidden contract are the *jumhur fuqaha* (the majority of jurisprudence experts) spearheaded by Imam Abu Hanifah, Malik and Syafi'i and their respective followers. The parties who permitted the buying and selling of *urbun* were Imam Ahmad ibn Hanbal and his followers.

One of the causes of differences of opinion between the two camps regarding buying and selling *urbun* is due to the existence of two hadiths regarding *urbun* as explained at length earlier. *Jumhur* is of the opinion that buying and selling *urbun* is a prohibited contract because there is a hadith of the prophet which specifically prohibits such buying and selling. Imam Ahmad ibn Hanbal also argued with the hadith that permitted the buying and selling of *urbun*.

Therefore, when establishing the legal basis for down payments in murabahah, the DSN-MUI should use one of the Prophet's hadiths regarding the provisions of sales using down payments. In determining the law on sales using down payments, specifically the concept of down payments applied to murabahah contracts, the DSN-MUI has decided that scholars agree that requesting down payments in sales contracts

is permissible. It can be concluded from the DSN-MUI fatwa that down payments in murabahah are permissible.

2. Istinbatul Ahkam method DSN Fatwa NO 13/DSN-MUI/2000 regarding down payment in Murabahah

The primary sources of Islamic law are the Qur'an and the Hadith of the Prophet Muhammad (peace be upon him). These two sources are also referred to as the basic principles of Islamic law. In addition to the Qur'an and Sunnah, *ijma'*, *qiyas*, *istishan*, *maslahah mursalah*, *istishab*, *'urf*, *syar'u man qablana*, the school of companions and *sad al-dzari'ah* are all supporting principles that serve as tools to arrive at the laws contained in the Qur'an and Sunnah. Because it is a tool to help understand the Qur'an and Sunnah, some scholars refer to it as the *istinbath* method. Imam Al-Ghazali (d. 505 AH), for example, referred to *qiyas* as the *istinbath* method.

In determining the law regarding down payments in murabahah, DSN-MUI uses arguments in the form of Al-Qur'an verses, prophetic hadith and fiqh rules. The arguments used by DSN-MUI in carrying out *istinbat* still use general arguments. This does not rule out the possibility that DSN-MUI has other considerations when determining the law regarding down payments in the murabahah.

If you look at it, the hadiths used as a legal basis by DSN-MUI in carrying out *istinbat* are not hadiths that specifically touch on the issue of down payments (*urbun*), but the hadiths used by DSN-MUI are hadiths where all forms of conditions (in this case transactions) must not prohibit what is halal or make lawful what is haram. As well as the hadith which prohibits any party from being harmed or harmed in a transaction.

Likewise, the fiqh principles used in issuing this fatwa are similar to the two hadiths used by the DSN-MUI in issuing the fatwa. These principles explain that all forms of transactions are permissible as long as there is no evidence prohibiting them. Furthermore, all forms of harm (which could harm the parties involved) must be eliminated.

It appears that the *istinbath* method used by the DSN-MUI to determine the down payment in murabahah is based on the concept of benefit. In this case, it could perhaps be called the *maslahah mursalah* method. This is due to the lack of specific evidence governing the down payment in murabahah due to the weakness of the two hadiths related to it.

In simple terms, the *marshalah* method is to provide law in a case based on considerations of benefit which are not specifically stated in the text, whereas if it is carried out, it will clearly bring benefit and if it is abandoned it will result in harm.

In this case, Asy-Syatibi is of the opinion that:

Allah's blessings God willing

"Indeed, the establishment of a law is for the benefit of servants both in this world and in the hereafter."

According to Juhaya S. Praja, jurists formulated this concept with various interpretations. The reformulation of this concept is based on its normative and empirical concepts. Normatively, *maslahat* refers to a state that should exist, so that there is only goodness, comfort, and peace. In short, there are only positive things or, there is no negative things at all, such as damage, danger, and loss. Empirically, the concept of *maslahat* refers to the extent to which something or a positive state is

realized so that its existence can be felt and experienced by society. In other words, *maslahat* is a reality that truly exists and can be felt.

Islamic law, which promises benefits for God's servants (*al-ibad*), must be constructed and enforced in accordance with those empirical benefits. It must also be understood that the normative aspects of these benefits must align with their empirical aspects. Islamic law (Allah's *shari'a*) truly lies behind these real benefits, even though its symbolism does not mention Islam.

The existence of this benefit must be truly felt and experienced by God's servants (*al-ibad*), which in empirical language is called the *ummah*. In a normative-empirical scheme, Islamic law can be understood as a *wasail* in achieving the benefit of His servants (*maqashid*).

Additionally, the DSN-MUI should add several Islamic jurisprudence principles that could strengthen the legal status of down payments in *murabahah* contracts, which are stated as permissible by the DSN-MUI fatwa. These principles are as follows:

وَحَيْثُمَا وَجَدْتَ الْمَصْلَحَةَ فَتَمِّمْهُ

"Wherever benefit is found or felt, that is where Allah's law appears."

التَّحْرِيمُ may Allah bless him and give him peace and blessings

"Basically, everything that is beneficial is *halal* (permissible) as well as being mutually harmful (harmful), *haram*."

Apart from the concept of benefit which is used as the *istinbat* method used by DSN-MUI in determining the fatwa regarding down payments in *murabahah*, it seems that DSN-MUI applies the concept of *istinbat* in determining the fatwa. This is in accordance with the opinion of Wahbah al-Zuhaili who states that buying and selling or renting transactions using down payments has become a culture that occurs in society, and it has become a community need for this. As well as a bond in transactions between sellers and buyers.

Therefore, it can be concluded that the *istinbat* method used by DSN-MUI in determining the fatwa on down payments in *murabahah* uses two approaches, first, by using the *maslahat* (benefit) method, second, by using the *urf* method as a basis for other considerations in determining the fatwa.

C. The Process of Transformation of the Urbun Concept in the Fatwa of the National Sharia Council of the Indonesian Ulama Council (DSN-MUI)

Transformation can take two forms: first, planned change, and second, unplanned change. It encompasses two things: structural transformation and cultural transformation. Structural transformation relates to changes in the structure and organization of society and its institutions, while cultural transformation concerns changes in norms, values, views, and behavior. Thus, transformation is also called social change, which encompasses all systems used by humans to organize society, including political, social, economic, intellectual, religious, and psychological systems.

Based on the transformation theory above, several transformations occur, including:

1. Transformation of the concept of *urbun* into down payment.

The author sees that the transformation process that occurred in the concept of *urbun* into down payment, this transformation process occurred because it made

it easier for the public to understand the language of economics, so that the Sharia Council (DSN) agreed to change the language of urbun into down payment.

2. Object Transformation

a. Transformation of Cultural Objects

Cultural transformation such as culture, etc. In the concept above, there has been a change in the type of goods to be used as down payment, in ancient times there were some friends who used goods as down payment, whereas at present the down payment must be in the form of money. In addition, there is public demand for the concept of urbun or down payment, so that the Islamic Financial Institution (LKS) proposed to make a fatwa regarding down payment in murabahah. Therefore, DSN-MUI made a Fatwa regarding down payment in murabahah considering; a. That to show the seriousness of the customer in requesting murabahah financing from the Islamic Financial Institution (LKS). b. that in the implementation of the murabahah contract using down payment no party is harmed, in accordance with the principles of Islamic teachings, DSN considers it necessary to issue a fatwa regarding down payment in murabahah.

b. Structural Object Transformation

In this structural transformation, there is a change in the legal status of law, where initially the concept of urbun was only the opinion of the fuqaha and had not been enjoyed by the general public, because it was still in the form of fiqh law, whereas currently urbun can be enjoyed by the general public because it has changed into a dimension of taqnin law in the form of the DSN-MUI Fatwa.

3. Shape transformation

In this transformation, the change in form is an evolutionary change, meaning a gradual change from the concept of urbun to a down payment. Based on the transformation theory above, in relation to the transformation of the theory of muamalah fiqh regarding urbun by the fuqaha into Islamic banking regulations in the form of taqnin, namely the DSN-MUI fatwa with the concept of down payment, the transformation that occurs is a comprehensive transformation, occurs in an evolutionary manner, is planned and involves cultural and structural objects.

CONCLUSION

Based on the results and discussion in CHAPTER III and to answer the problem formulation in this research, it can be concluded as follows: Fuqaha's cross-opinion regarding the law of buying and selling 'urbun is that, the majority of Islamic jurisprudence scholars say that, ba'i 'urbun is buying and selling which is prohibited and not valid, these scholars include; The Hanafiyah, Maliki and Shafi'i schools of thought, while Imam Ahmad and his followers are ba'i 'urbun, the law is permissible. So the strongest opinion between these two opinions is the opinion that allows buying and selling urbun, this is because the two hadiths relating to buying and selling urbun are both weak and cannot be used as proof, and payment for buying and selling using down payments has become 'urf in society.

The concept of down payment in murabahah still uses general arguments, either in the form of verses of the Qur'an or hadiths of the prophet, while the istinbath method used by DSN-MUI in determining the fatwa on down payment in murabahah uses two approaches, first, by using the maslahat method (benefit), second, by using

the urf method. Based on the theory of transformation in relation to the transformation of the theory of fiqh muamalah regarding urbun by the fuqaha into Islamic banking regulations in the form of taqnin, namely the DSN fatwa with the concept of down payment, the transformation that occurs is a comprehensive transformation, occurs in an evolutionary, planned and involves cultural and structural objects.

The process of transforming the concept of urbun into a down payment in the Fatwa of the National Sharia Council of the Indonesian Ulema Council (DSN-MUI) which occurred several transformations including; a). Transformation of the concept of urbun into a down payment. b). Transformation of cultural objects such as culture, etc., that down payments are replaced using money-type goods. c). Transformation of structural objects, namely a change in the legal status of law, where initially the concept of urbun was only the opinion of the fuqaha and had not been enjoyed by the general public, because it was still in the form of fiqh law, whereas currently urbun can be enjoyed by the general public because it has changed into a taqnin legal dimension in the form of a DSN-MUI Fatwa. d). Transformation of form is an evolutionary change, meaning a gradual change from the concept of urbun to become a down payment.

REFERENCES

- Abdul Adzim Abu Zaid. (n.d.). *Bai'i al-Murabahah Liamir bi al-Syira*. n.p.
- Abdullah bin Muhammad Ath-Thayyar, At-Muthlaq, A. bin M., & Al-Musa, M. bin I. (2004). *Ensiklopedia Fiqih Muamalat dalam pandangan empat Madzhab*. Yogyakarta: Maktabah Al-Hanif.
- Al-Qurthubi, A. M. I. A. (2007). *Al-Jami' li Ahkam Al-Qur'an*. Kairo: Dar Al-Hadits.
- Al-Qazwini, A. A. M. I. Y. (2008). *Sunan Ibn Majah*. Beirut: Dar Fikr.
- Al-Andalusi, A. W. M. I. A. I. M. I. A. I. R. (2008). *Bidayah al-Mujtahid wa Nihayah al-Muqtashid*. Beirut: Dar Fikr.
- Al-Kufi, A. B. A. I. M. I. A. S. A. (n.d.). *Mushanif Ibn Abi Syaibah*. n.p.
- Al-Sijistany, A. D. S. I. A. I. (2007). *Sunan Abi Daud*. Beirut: Dar Fikr.
- Al-Sa'adi, A. H. A. I. H. I. M. (1984). *Fatawa al-Sa'adi*. Beirut: Muasasah al-Risalah.
- Al-Turfawi, A. H. A.-D. (n.d.). *Ba'i al-'Urbun fi Dho'i al-Syari'ah al-Islamiyah*. n.p.
- Al-Syairazi, A. I. A. I. Y. A.-S. (2005). *Al-Muhadzab fi Fiqh Al-Madzhah Al-Imam Al-Syafi'i*. Beirut: Dar Fikr.
- Ibn Qudamah, A. M. M. A. A. I. M. (n.d.). *Al-Mughni*. n.p.
- Al-Jaziri, A. S. A.-M. I. M. A. (1979). *Al-Nihayah fi Gharib wa Al-Atsar*. Beirut: Dar Kutub Al-Ilmiyyah.
- Al-Qinauji, A. T. M. S. K. I. H. I. A. I. L. A. A.-B. (n.d.). *Al-Raudhah Al-Nadiyah Syarah Al-Durar Al-Hibiyyah*. n.p.: Dar Ma'rifah.
- Al-Qurthubi, A. U. Y. I. A. I. A.-N. (2000). *Al-Istidzkar Al-Jami' Limadzhahib Fuqaha Al-Amshar*. Beirut: Dar Kutub Al-'Ilmiyyah.
- An-Nawawi, A. Z. M. A.-D. Y. I. S. (n.d.). *Al-Majmu' Syarah Al-Muhadzab*. n.p.
- An-Nawawi, A. Z. M. A.-D. Y. I. S. (n.d.). *Raudat at-Thalibin wa Umdat Al-Muftin*. Beirut: Maktab Al-Ismali.
- Antonio, M. S. (2001). *Islamic Banking: Bank Syariah dari teori ke praktik*. Jakarta: Gema Insani.
- Ascarya. (2012). *Akad dan Produk Bank Syariah*. Depok: PT Rajagrafindo Persada.

- Athiyah Ibn Muhammad Salim. (n.d.). *Syarah Bulugh al-Maram*. n.p.
- Al-Fanrawi, A. I. G. I. S. (n.d.). *Al-Fawakihah Al-Dawani 'ala Risalah Ibn Abi Zaid Al-Qairuni*. n.p.: Maktaba At-Tsiqafah Ad-Diniah.
- Al-Baihaqi, A. I. H. I. A. I. M. A. B. (1994). *Sunan al-Kubra*. Makkah: Maktabah Dar-Baz.
- Al-Kanani, A. I. A. B. I. I. A. (1403 H). *Mashobih al-Zujajah fi Zawaid Ibn Majah*. Beirut: Dar al-'Arabiah.
- Al-Jurjani, A. I. M. I. A. (1405 H). *At-Ta'rifat*. Beirut: Dar Kutub al-'Arobi.
- Al-Manawi. (1994). *Faidh al-Qadir*. Beirut: Dar Kutub al-'Ilmiyyah.
- Al-Zuhaili, W. (1997). *Konsep Darurat dalam Hukum Islam: Studi banding dengan hukum positif* (S. A. H. al-Munawar, Trans.). Jakarta: Gaya Media Pratama.
- Al-Zuhaili, W. (2000). *Ba'i al-'Urbun*. Damaskus: Dar al-Maktabi.
- Al-Zuhaili, W. (2009). *Al-Fiqh al-Islami wa Adillatuh*. Beirut: Dar Fikr.
- Anonim. (2006). *Himpunan Fatwa Dewan Syariah Nasional MUI*. Jakarta: Gaung Persada Press.
- Anonim. (2010). *Kompilasi Hukum Ekonomi Syariah*. Bandung: Fokusmedia.
- Anonim. (n.d.). *Khulashah fi Ahkam al-Ijtihad wa al-Taqlid Faqad*. n.p.
- Anonim. (n.d.). *Mu'jam Lughat al-Fuqaha*. n.p.
- Bani Quraisy, J. M. (2004). *Perkembangan Fatwa Ekonomi Syariah di Indonesia*. Bandung: Pustaka Bani Quraisy.
- Bani Quraisy, J. M. (2005). *Ijtihad Kemanusiaan di Indonesia*. Bandung: Pustaka Bani Quraisy.
- Djuwaini, D. (2010). *Pengantar Fiqh Muamalah*. Yogyakarta: Pustaka Pelajar.
- Hakim, A. A. (2011). *Fiqh Perbankan Syariah*. Bandung: Rafika Aditama.
- Hidayatullah, S. (2012). *Qawa'id Fiqiyyah dan Penerapannya dalam Transaksi Keuangan Syariah Kontemporer: Mu'amalat, Maliyah Islamiyah, Mu'ashirah*. Depok: Gramata Publishing.
- Hooker, H. B. (2003). *Islam Mazhab Indonesia*. Bandung: Mizan.
- Ibn Hibban, M. I. H. A. I. H. A. M. A. A. D. A.-B. (n.d.). *Shahih Ibnu Hibban*. n.p.: Muasasah Al-Risalah.
- Ibn Majah, A. A. M. I. Y. (2008). *Sunan Ibn Majah*. Beirut: Dar Fikr.
- Ismail. (2011). *Perbankan Syariah*. Jakarta: Kencana Prenada Media Group.
- Januri, Y. (2015). *Fikih Lembaga Keuangan Syariah*. Bandung: PT Remaja Rosdakarya.
- Karim, A. (2011). *Bank Islam: Analisis dan keuangan*. Jakarta: PT Raja Grafindo Persada.
- Kasmir. (1998). *Bank dan Lembaga Keuangan Lainnya*. Jakarta: Rajawali Press.
- Mardani. (2011). *Hukum Ekonomi Syariah di Indonesia*. Bandung: Refika Aditama.
- Mardani. (2012). *Fiqh Keuangan Syariah*. Jakarta: Kencana Prenada Media Group.
- Maulana Hasanudin & Mubarak, J. (2012). *Perkembangan Akad Musyarakat*. Jakarta: Kencana Prenada Media Group.
- Musthafa, I., et al. (n.d.). *Mu'jam al-Wasith*. n.p.: Dar ad-Da'wah.
- Praja, J. S. (2011). *Teori Hukum dan Aplikasinya*. Bandung: Pustaka Setia.
- Praja, J. S. (2012). *Ekonomi Syariah*. Bandung: Pustaka Setia.
- Qal'aji, M. R. (n.d.). *Mu'jam Lughat al-Fuqaha*. Beirut: Dar Nafs.
- Rachmadi Usman. (2009). *Produk dan Akad Perbankan Syariah di Indonesia*. Bandung: PT Citra Aditya Bakti.

- Rivai, V., Suarto, S., Hulmansyah, H., Wihasto, H., & Permata, A. (2012). *Islamic Banking and Finance*. Yogyakarta: BPFE Yogyakarta.
- Sa'di Abu Jaib. (1988). *Al-Qamus Al-Fiqhi: Lughatan wa Istilahan*. Suriah: Damaskus, Dar Fikr.
- Sayyid Sabiq. (2008). *Fiqh al-Sunnah*. Beirut: Dar Fikr.
- Sugiyono. (2011). *Metode Penelitian Administrasi*. Bandung: Alfabeta.
- Supriyadi, A. (2003). Sistem Pembiayaan Berdasarkan Prinsip Syariah. *Jurnal Al-Mawarid*.
- Undang-Undang Republik Indonesia Nomor 21 Tahun 2008 tentang Perbankan Syariah.
- Usaimin, M. I. S. A. D. (2006). *Fatawa Nur 'Ala Dirob*. Muasasah Syaikh Muhammad Ibn Sholih Al-Utsaimin Rohimahullah.
- Zainal Arifin. (2000). *Memahami Bank Syariah*. Jakarta: Alvabet.
- Zainuddin Ali. (2008). *Hukum Perbankan Syariah*. Jakarta: Sinar Grafika.