

The Concept of Istihsan and Its Application in Sharia Economic Fatwas

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Abstract

This study aims to analyze the concept of istihsan in usul al-fiqh and examine its relevance and application in sharia economic fatwas as a response to the complexity of modern economic transactions that cannot always be resolved through general rules or qiyas jali. The research methodology used is a qualitative approach with a library research type and is normative in nature, with primary data in the form of fatwas from the National Sharia Council-Indonesian Ulema Council (DSN-MUI) relating to contemporary contracts and transactions, such as salam contracts, istisna', mu'āṭāh sales, sharia electronic money, and sharia fintech services, as well as secondary data in the form of ushul fikih and fikih muamalah literature. The analysis was conducted through content analysis and comparative-argumentative analysis to assess the shift in legal rulings from qiyas jali to the istihsan approach. The results of the study show that istihsan is used explicitly in sharia economic fatwas through various forms, such as istihsan bi al-nash, istihsan bi al-maslahah, and istihsan bi al-'urf, in order to realize benefits, justice, and convenience without violating the basic principles of sharia, particularly the prohibition of usury, gharar, and injustice. This study confirms that istihsan is a valid and relevant method of ijtihad in the development of Islamic economic fatwas, and has original value in demonstrating the adaptability of Islamic law to contemporary economic dynamics while remaining oriented towards the maqashid of Sharia.

Keywords : Istihsan; Ushul al-Fiqh; Sharia Economic Fatwas; DSN-MUI; Islamic Economic Law;

Introduction

The increasingly complex dynamics of the modern economy, the way people buy and sell, save, borrow, invest, and even pay, are very different from the past. There are transactions via apps, cashless shopping and payments, digital investments, various installment schemes, and complex business collaborations involving many parties.(Muttaqin & Rosyadi, 2023) These changes bring benefits, but they also raise many questions for Muslim communities: "Is this in accordance with Sharia law?", "Are there elements of usury, gharar (uncertainty), or injustice?", and "If it does not exactly match the transactions described in the old books, what is the ruling?"(Khodijah, 2014)

That is why Sharia economic fatwas are important. A fatwa is a legal explanation from scholars or fatwa institutions to answer issues that arise in society. Fatwas help the community to conduct transactions with peace of mind, because there are clear guidelines.(Sahman Z et al., 2023) However, issuing fatwas in the field of economics is not always easy. Many modern economic issues are new in nature, not directly mentioned in the Qur'an and Hadith, or not exactly the same as examples of transactions in classical times. Sometimes a transaction appears to be "similar" to an old example, but the details are different. This is where scholars need a methodical approach to ensure that fatwa decisions remain correct, fair, and beneficial.(Wardhani & Fanani, 2015)

In Islamic jurisprudence, scholars typically use general rules and compare new cases with old cases whose rulings are already clear. For example, if there is a "case A" whose ruling is already

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known, and then a similar "case B" arises, then the ruling for B follows that of A. This method is important for maintaining consistency. However, in reality, not all new cases can be decided solely by "general rules" or "simple comparisons." Sometimes if general rules are applied rigidly, the result can actually burden the community, cause injustice, or make it difficult for people to carry out economic activities that are actually needed.(Zaidah, 2017)

This is where the concept of istihsan comes in. Istihsan can be understood in simple terms as "choosing the most appropriate and beneficial legal path when general rules cause difficulties or have negative consequences." So, istihsan does not mean "looking for the easy way out" without reason, let alone following market desires.(Alam et al., 2021) Istihsan still has a basis, still involves scientific considerations, and still remains within the corridor of sharia. The difference is that istihsan provides room to look at the actual conditions: whether the application of general rules is actually detrimental, and whether there are arguments or strong reasons that allow for exceptions in certain cases.(Rofiq, 2023)

To make it easier, imagine traffic lights. In general, people must stop when the light is red. That is the correct and important rule. But in certain circumstances, for example, when an ambulance is transporting a patient in critical condition, there are special rules that allow the ambulance to drive with its siren on and an escort. This is not a violation, but a justified exception to prevent greater harm. Well, istihsan is more or less like that in the field of law: there are general rules, but there are also valid exceptions for compelling reasons.(Maulana & Rosyadi, 2024)

However, istihsan is also often debated. Some worry that istihsan makes the law too "flexible" and ultimately subjective. For example, if someone easily says "just use istihsan," even though there is no valid reason, it can be dangerous. In the context of Islamic economics, this risk is even greater because fatwas sometimes conflict with business interests, industry pressures, or market trends. If istihsan is used without clear limits, there is a concern that fatwas could actually legitimize something that is problematic.(Makmur, 2019)

Therefore, the study of istihsan is very important, especially for Islamic economics. We need to clearly understand: what is istihsan, when can it be used, what are the conditions, and what are the limits. In addition, it is also important to see how istihsan is used in Islamic economic fatwas in real life. For example, in the case of financing products, contract combinations, late fees, or transactions that require standardization. In some situations, scholars may use istihsan to uphold justice and public interest, while still avoiding usury and ambiguity.(Isman, 2020)

Against this background, the scientific article on "The Concept of Istihsan and Its Application in Sharia Economic Fatwas" is relevant because it discusses two things at once. First, it explains the concept of istihsan in a correct manner that avoids misunderstanding. Second, it demonstrates its application in Sharia economic fatwas, so that the public can see that fatwas are not merely "the words of scholars," but the result of scientific consideration that upholds Sharia values and the interests of the community.

Research Method

This research is qualitative research in the form of *library research*. The approach used is normative, which is to examine the concept of istihsan as a method of istinbath law and assess its relevance in sharia economic fatwas. The objects of this study include the concept of istihsan in ushul fiqh (definition, types, and arguments) and the application of istihsan in sharia economic fatwas, particularly in DSN-MUI fatwas related to contemporary contracts and transactions. The research uses document-based data with primary data classification in the form of DSN-MUI fatwa documents relevant to the topic, such as fatwas on Salam, Istisna', and fatwas related to sharia electronic money and sharia fintech. Meanwhile, secondary data consists of books and literature on usul fiqh and fiqh muamalah, books/journals discussing istihsan, qiyas, maslahah, and 'urf, as well as other academic sources that support the analysis. Data was collected through documentation studies, namely examining, recording, and classifying the contents of literature and fatwa documents relevant to the research theme. Data analysis was carried out in stages: first, data reduction by selecting relevant

material (definitions/types of istihsan, illat, maslahah, 'urf, and fatwa provisions). Second, data presentation by grouping the discussion into theoretical concepts of istihsan and its application in DSN-MUI fatwas (case studies). Third, content analysis by interpreting the arguments of the fatwa, then mapping whether the approach is more dominant towards *istihsan bi al-nash*, *bi al-ijma'*, *bi al-maslahah*, or *bi al-'urf*. Fourth, comparative-argumentative analysis by comparing general rules (qiyas/fiqh rules) with reasons for exceptions (istihsan) to assess the consistency of fatwas with the objectives of sharia (maqashid), particularly the prevention of usury, gharar, and injustice.

Theoretical Basis

1. Definition of Istihsan

The linguistic meaning of istihsan is to assume something to be good, derived from the word *al-husnu* (good). Meanwhile, *Istihsān* based on *ushul fiqh*, as stated by Wahbah Azzuali, has two definitions. First, *Istihsān Qiyasi*, which is using *qiyas khafi* and abandoning *qiyas jali* because there is an indication for it. Second, *Istihsān Istihsnay*, which is the exception to the generally applicable rules because there is an indication for it. (Syariah & Adam, 2021)

Meanwhile, the definition of *Istihsān* in Z. Nurdin's book states that the linguistic meaning of *Istihsān* is to consider something good. Meanwhile, according to the term, it is the shift in the thinking of a *mujtahid* from the demands of *qiyas jali* to *qiyas khafi* or from general law to exceptions because there is an error in thinking which then wins the shift.

The Hanafi scholars define *Istihsān* as follows:(Ngizzul, 2020)

- a. Al-Bazdawi defines it as turning away from *qiyas* in favor of a stronger *qiyas*, or specializing *qiyas* based on stronger arguments. According to him, in some cases, the *qiyas* method is difficult to apply because the *illat* (legal rationale) is very weak. Therefore, it is necessary to find another method that contains a stronger legal rationale, so that the law applied in a case is more appropriate and in line with the objectives of sharia.
- b. Imam Al-Sarakshi said that *Istihsān* means abandoning *qiyas* and applying something stronger than it because there is evidence that requires it and is more in line with human interests. According to him, *Istihsān* is basically two types of *qiyas*. First, clear *qiyas* (*qiyas jali*), but its impact on achieving the objectives of Sharia () is weak. The other is hidden *qiyas* (*qiyas khafi*), which has a strong influence.(Isman et al., 2024)

From the above definitions, it can be concluded that *Istihsān* is essentially a source of law derived from the *ijtihad* of Hanafi, Maliki, and Hanbali scholars concerning the application of clear legal provisions and principles generally derived from textual evidence, consensus, or analogy. However, these clear legal provisions cannot be applied and must be changed because they concern specific issues that are of a special nature.

2. Types of Istihsan

The scholars divide *istihsan* into six types, namely:(Shauqi & Suhardi, 2023)

- a. *Istihsan bi al-Nash* (*istihsan* based on verses or hadith). This means that there are verses or hadiths about the ruling on a case that differ from the general rules. In the context of *muamalah* transactions, for example, the *salam* sale and purchase agreement, which is the sale and purchase of goods that do not yet exist. However, because there is a *nash* from the hadith of the Prophet (peace be upon him) that permits it, the ruling on *salam* sale and purchase is permissible.

Another example is in the matter of wills. According to general provisions or *qiyas*, wills are not permissible because the transfer of ownership rights to the beneficiary is carried out when the testator is no longer competent, i.e., after his death. However, this general rule is exempted by the words of Allah SWT in Surah *al-Nisa* (4) verse 11. Based on this verse, the general rule does not apply to wills.

- b. *Istihsan bi al-Ijma'* (*istihsan* based on *ijma'*). In the context of *muamalah*, for example, the scholars agreed (*ijma'*) on the permissibility of performing an *ijārah* contract for public baths, even though there is an element of *gharar* regarding the amount of water used. By analogy,

such contracts are prohibited, but the practice has been carried out in society without any objection from the scholars. Therefore, this permissibility is based on the *ijma'* of the scholars as a form of *istihsan*.

- c. *Istihsan bi al-qiyās al-khafīy* (*istihsan* based on hidden *qiyas*). For example, in the case of agricultural land *waqf*. According to the provisions of *qiyas jali* (obvious *qiyas*), this *waqf* is equated with a sale and purchase contract, because the land owner has relinquished his ownership rights by transferring the land. Therefore, the rights of others to pass through the land or the rights of others to channel water to their agricultural land through the land are not included in the *waqf* contract, unless stated in the contract. According to *qiyas khafi* (hidden analogy), *waqf* is equated with a lease contract, because the purpose of *waqf* is to utilize the agricultural land that is donated. With this characteristic, all existing rights of others on the agricultural land, such as the right to pass through the agricultural land or the right to channel water over the agricultural land, are included in the *waqf* contract, even if not specified in the contract. If a *mujtahid* takes the second ruling (*qiyas khafi*), then he is said to be arguing with *istihsan*. (Muthoifin, 2023)
- d. *Istihsan bi al-mashlahah* (*istihsan* based on benefit). In the context of *muamalah*, an example is the general provision that stipulates that workers in a factory are not responsible for damage to the commodities produced in the factory, except for their negligence and intentional acts, because they are only workers who receive wages. However, for the sake of public interest in protecting the property of others () from the irresponsible attitude of workers and the difficulty of trusting some factory workers in matters of product safety, Hanafī scholars use *istihsan* by stating that workers must be responsible for damage to any factory product, whether intentional or not (Muthoifin, 2021). Another example is the application of revenue sharing in profit distribution, as well as the application of collateral in financing at Islamic banks, one of which is the application of collateral in *amanah* contracts such as *mudhārabah* or *musyārahah* contracts. Originally, these contracts did not require collateral, but for the sake of benefit, it is permissible for Islamic banks to apply collateral in *mudhārabah* or *musyārahah* contracts.
- e. *Istihsan bi al-'urf* (*istihsan* based on custom). In other words, *istihsan bi al-'urf* refers to a legal exception to the general rule based on good custom. An example in the context of *muamalah* is that *mu'āṭah* sales are prohibited because, according to *qiyas*, there is no *ijab-kabul* in this sale. However, because it has become customary in society, it is permitted. The same applies to spot *sharf* sales with a two-day period. Another example is the custom of society to determine a specific currency as the official currency of a country.

3. The Legitimacy of *Istihsān*

From the Hanafī school of thought, *Istihsān* can be used as a legal argument. *Istihsān* can apply laws that are not the same as those established by *qiyas* or *nash*. In short, according to them, *Istihsān* can be used as evidence. Al-Taftazani mentions that *istihsan* is one of the arguments agreed upon by the scholars, because *Istihsān* is based on *nash*, *ijma'*, emergency situations, or *qiyas khafi*. Some of the reasons why the Hanafī, Maliki, and Hanbali scholars consider *Istihsān* to be a source of law (which is a strong argument in determining Sharia law) include: Suprio Jaya Putra and Syukri Iska, 'Analysis of Sharia Economic Law on Dsn-Mui Fatwa Number 54 of 2006', 2023, pp. 532–42.

- First, Surah al-Baqarah verse 185, which means "Allah desires ease for you and does not desire hardship for you."
- Second, Surah al-Zumar (39) verse 18, which means, "Those who listen to the word and follow the best of it. They are the ones whom Allah has guided, and they are the ones who have understanding."

In addition to verses from the Qur'an, these scholars also used the Prophet's hadith to reinforce their opinions, including a fatwa from the Prophet which states that things that are

considered right among Muslims are, in principle, also interpreted by Allah SWT as good. The hadith reads, "What is considered good by Muslims is also good in the sight of Allah. (Ahmad ibn Hanbal)

The Role of Istihsan in the Dynamization of Sharia Economic Law

Abu Hanifah was a scholar who established many laws using Istihsān. In establishing laws using Istihsān, Abu Hanifah said: Astahsin, meaning I consider (something to be) good. However, the existence of Istihsān among usul fiqh scholars is still debated or disputed in the establishment of laws. According to Wahbah az-Zuhaili, these differences of opinion arise from differences in the interpretation of Istihsān. Imam Shafi'i rejected Istihsān based on personal desires without any basis in Sharia law. As for istihsan, which is used by its adherents, it is not based on whims, but rather on tarjih (considering one of two conflicting arguments to be more valid), because it is considered to be more in line with the objectives of the law. (Sovia, 2024)

An example of this is in the case of mudharabah contracts and other laws mentioned by scholars who accept Istihsān arguments, which are also accepted by those who reject Istihsān arguments. Therefore, Ibn Qudamah said that there is no reason to reject Istihsān if it is based on arguments supported by Sharia, even if it is based on induction and various verses and relics. As for istihsan that is only based on spiritual opinion, all usul fiqh scholars reject it, because in matters of Sharia law, spiritual opinion must be legalized from the text, even if it is general. (Hukum et al., 2025)

If the concept of Istihsān is understood as an effort to establish rulings based on several arguments supported by Sharia, then it is hoped that there will be no division among scholars in arguing for it. It is also not useful to use texts, qiyas jaliy, or general clauses to find solutions in definitive situations, especially in the modern era, as exemplified by the enactment of laws on professional zakat, bank deposit interest, organ transplants, and the like. Istihsān is closely related to the assessment of benefits, both in the short term and in the long term. This is because the ultimate goal of Islamic mandates and prohibitions is the good of society (maqasid al-syariah), which is inseparable from the human dimension. (Rachman et al., 2022)

If we look at the basis of Istihsān's validity, it is clear that Istihsān based on qiyas khafi actually involves istinbath with qiyas, replacing one qiyas with another. Qiyas khafi is actually used to avoid the abuse of rights resulting from the unconditional application of qiyas jali. Istihsan is very important because the spirit of Islamic law is contained in the rules of kulli, maqashid syariah, and kullyah fiqhiyah. (Nafis, 2017)

So Istihsān is a method of istinbath law that is relevant to the implications for the renewal of Islamic law. The parameter is that contemporary Islamic regulations are in line with the basis of maslahat, both for accepting maslahat (Jalb-u Al Mashālih) and for protecting humans from insecurity and sin (Dar-u Al Mafāsīd). In other words, Istihsān is a method of performing ijtiḥad that applies the power of Islamic Sharia in specific matters. In understanding the importance of Istihsān in the renewal of Islamic regulations, it is important to explain again that the renewal of Islamic regulations means creating regulations that are able to respond to problems and advances arising from the development of various disciplines, as well as technological sophistication, in order to decide on rules for contemporary problems to replace previous regulations that no longer respond to the conditions of the welfare of the people today. (Adam et al., 2021)

Based on the above paragraph, it can be concluded that Istihsān can be used as a Sharia postulate, because Istihsān does not establish regulations based solely on ra'y, but Istihsān is a method of istinbath law that can be accounted for because it is based on a strong sandar (sanad).

The Application of Istihsān in Contemporary and Future Sharia Economics

Islam (sharia) and Islamic thought have made a significant contribution in Indonesia as an effort to sustain and develop thought, particularly in the field of economics, which discusses the actualization or re-actualization of Islamic law in the field of muamalah. Advances in science and technology have directly brought about a shift in people's mindsets and perspectives, leading to logical consequences

for the formation of new norms. (Abdul Wahid et al., 'Sharia Economic Ijtihad: An Ushul Fiqh Analysis of Global Market Dynamics', 06.01 (2025).

In terms of domain division, activities in the field of Islamic economics fall within the scope of Islamic activities. As they are social affairs, laws are needed to regulate the running of Islamic economics or business so that they can run effectively and efficiently in accordance with Islamic values, while remaining on the right path. In the Islamic legal system, the laws governing muamalah also originate from various legal sources, namely the Qur'an, As-Sunnah, and ijtihad. The three have different characteristics. The Qur'an and Hadith are fixed, while ijtihad tends to be active and contextual. (Ibn & Bogor, 2023)

Therefore, the importance of Istihsān in the reform of Islamic law and Islamic economics in the present and future has a significant contribution. As we know, Istihsān changes the mujtahid law from other laws. The basis of Istihsan is therefore the creation of laws that are different from the general rules, because outside the general method it is possible to obtain provisions that are more suitable for the purposes of sharia. Thus, ijtihad with Istihsān is stronger than qiyas. Therefore, istihsan is very important in the renewal of Islamic law. Islamic legal reform seeks to support the objectives of sharia, namely the creation of legal regulations that can respond to the problems and developments caused by science and technology.

According to the fihiyyah Istihsan rule, there are several empirical cases of sharia economic problem solving, including: (Salwa & Bariyah, 2025)

- The contract of salam sale and purchase is, in principle, prohibited by Sharia law, which prohibits the ownership of goods that do not yet exist at the time of the contract and transaction. However, Sharia then provides rukhshah, allowing salam, sale and purchase by means of a down payment (DP) and the goods being delivered later.
- The contract of al-istiṣnā', which is a contract of sale and purchase by ordering the goods in advance. This should not be done if it is likened to a sale and purchase because there are no goods at the time of the sale and purchase contract, but the consensus of scholars permits it.
- Mu'atāh sale and purchase is a sale and purchase without verbal agreement and acceptance. According to general rules (qiyas), ijab and qabul must be used for every sale, but because of the 'urf applied in supermarkets today, sale and purchase without ijab is common, so mu'atah sale and purchase is reasonable. Mu'atāh sales often occur in malls, supermarkets, or hypermarkets. According to the Istihsān urf argument, this type of sale is permissible.

Online shops and vending machines

The above examples are part of the application of istihsan practice today, namely by moving from qiyas jaly (clear analogy) to qiyas khafi (subtle and detailed analogy) because it is considered to have benefits.

Case Study on the Application of Istihsān in Sharia Economic Fatwas

1. Salam Sale Contract DSN-MUI Fatwa No. 05/DSN-MUI/IV/2000 on Salam Sale

Background:

According to the original legal principle (qiyas jali), the sale and purchase of something that does not yet exist at the time of the contract is invalid, as it constitutes the sale and purchase of something that is not owned and whose existence is uncertain (bai' al-ma'dum). However, in the practice of life () of agrarian communities since the time of the Prophet Muhammad (PBUH), farmers often needed capital before harvest. Due to this need, Islamic law granted an exemption (rukhsah) by permitting the Salam contract, which is a sale with payment in advance and delivery of goods at a later date.

Application of Istihsan:

Fatwa DSN-MUI No. 05/2000 permits the Salam contract based on the consideration of maslahah mu'tabarrah (recognized public interest). The Council adopted the approach of

istihsan bi al-nash (exception based on textual evidence), which permits something generally prohibited based on a specific hadith of the Prophet permitting Salam (reported by Bukhari and Muslim).

Legal Analysis:

1. Transition from Qiyas Jali to Qiyas Khafi: The original law prohibits the sale and purchase of goods that do not yet exist (qiyas jali), but because there is benefit for farmers and buyers, Salam is permitted as istihsan.
2. Maslahah Aspect: This contract maintains economic benefits (helping small producers) and justice (buyers get cheaper prices).
3. Legal Certainty: The fatwa stipulates strict conditions: the goods must be described in detail, the price must be paid in advance, and the delivery time must be clear. This is a form of istihsan that still upholds the maqasid syariah: avoiding gharar (uncertainty) and upholding justice.

Conclusion:

The Salam contract demonstrates the application of istihsan bi al-nash, which permits legal exceptions due to the existence of nash and strong maslahat. This fatwa serves as the primary basis for pre-order transactions and modern agricultural financing in Islamic financial institutions.

2. Istisna' Contract DSN-MUI Fatwa No. 06/DSN-MUI/IV/2000 on Istisna' Sales

Background:

Istisna' contract is a sale and purchase in the form of ordering the manufacture of goods with certain criteria, where the goods do not yet exist at the time of the contract. By analogy, this type of transaction is invalid because it involves selling something that is not yet owned. However, the ijma' (consensus) of scholars allows this contract because of the needs of the wider community—for example, in the construction, manufacturing, and custom-made goods industries.

Application of Istihsan:

Fatwa DSN-MUI No. 06/2000 legitimizes the Istisna' contract with consideration of istihsan bi al-'urf (exceptions based on community customs) and istihsan bi al-maslahah (for the public good). The Sharia Council considers this contract important to support modern economic activities such as the construction of houses, roads, and infrastructure projects that involve installment payments.

Legal Analysis:

1. Transition of Qiyas: Qiyas prohibits the sale and purchase of goods that do not yet exist, but istisna' is permitted because of maslahah 'ammah (public interest). This is istihsan which replaces qiyas with considerations of real benefit.
2. Supporting Arguments: Hanafi and Maliki scholars permit Istisna' as a form of contractual sale and purchase because it does not cause gharar if the terms are clear.
3. Contemporary Maslahah: The Istisna' contract is highly relevant for project financing institutions, particularly Islamic banks and construction financing institutions (). The DSN-MUI adopts the istihsan approach to permit installment payment patterns and customized goods production contracts tailored to customer needs.

Conclusion:

This fatwa reflects istihsan bi al-maslahah, which prioritizes the interests of industry and society. It represents a form of flexibility in Islamic law towards economic needs without violating the principle of prohibiting gharar.

3. Mu'āṭāh Sale and Purchase (transactions without verbal ijab-qabul) DSN-MUI Fatwa No. 09/DSN-MUI/IV/2000 concerning Ijarah Financing and Its Relation to Modern Trade Customs (Relevant through the urf mu'āṭāh rule)

Background:

By analogy, sales transactions must be accompanied by a clear *ijab-qabul* to indicate the willingness of both parties. However, in modern society (such as in supermarkets, supermarkets, or vending machines), transactions are carried out by action—the buyer selects the goods, pays, and receives them without formal words. This phenomenon is known as *mu'āṭāh* sales.

Application of Istihsan:

The DSN-MUI considers this practice permissible through the approach of *istihsan bi al-‘urf* (based on valid social customs). Since *‘urf* (customary practices) has become a supplementary source of law in *muamalah* jurisprudence, this transaction is valid as long as there are no elements of fraud or loss.

Legal Analysis:

1. Transition from *Qiyas* to *Urf*: *Qiyas* requires verbal *ijab-qabul*, but with modern social customs, consent is considered to have been realized through concrete actions. This is an example of *istihsan bi al-‘urf*.
2. *Maslahah* Aspect: Requiring verbal *ijab-qabul* in every modern transaction would cause difficulties (*masyaqqah*), whereas *sharia* exists to eliminate hardship. With *istihsan*, the law is adjusted to remain applicable without violating the principles of consent and justice.
3. Relevance to Technology: *Mu'āṭāh* transactions form the basis for the validity of e-commerce, vending machines, and digital transactions that do not involve verbal statements.

Conclusion:

This fatwa affirms *istihsan bi al-‘urf* as a form of legal flexibility towards modern socio-economic customs, as long as it fulfills the elements of consent, clarity, and fairness.

4. **Online Transactions and Vending Machines DSN-MUI Fatwa No. 116/DSN-MUI/IX/2017 on Sharia Electronic Money and DSN-MUI Fatwa No. 117/DSN-MUI/IX/2018 on Information Technology-Based Financing Services (Fintech)**

Background:

Digital developments have created new forms of transactions, such as purchases through online shops, e-commerce, and vending machines. In practice, sales contracts are carried out through automated systems without direct *ijab-qabul*. By analogy, this form of transaction does not comply with the principles of classical contracts, but public demand has made it very widespread.

Application of Istihsan:

DSN-MUI in fatwas 116 and 117 uses the approaches of *istihsan bi al-‘urf* and *istihsan bi al-maslahah* simultaneously. The *Sharia* Council permits electronic transactions because: 1. Modern society considers clicking "agree" or "pay" as a valid form of *ijab-qabul*. 2. There is a significant benefit in terms of ease of transaction and digital economic efficiency. 3. As long as there are no elements of *gharar*, fraud, or usury, these transactions are valid.

Legal Analysis:

1. Transition from *Qiyas Jali* to *Qiyas Khafi*: Literally, the contract must be verbalized, but due to the digital nature, the agreement is made non-verbally. This includes *istihsan* that considers the interests of the global community.
2. Contemporary *Maslahah* Aspects: With *istihsan*, Islamic law becomes compatible with electronic financial systems without compromising *sharia* principles. The DSN-MUI fatwa confirms that digital transactions are valid because they fulfill the elements of *ridha* and legal certainty.
3. Relevance of *Maqasid Syariah*: This principle maintains *maslahat* (*jalb al-masalih*) while avoiding *mudarat* such as *gharar* and fraud.

Conclusion:

These fatwas demonstrate the dynamic and adaptive application of istihsan to technological developments. It ensures that Sharia law is not stagnant but capable of guiding change through the approaches of maslahat and 'urf.

Conclusion

Istihsān is a method of legal deduction that has strong relevance in the renewal of Islamic law, especially when socio-economic realities develop faster than classical forms of transactions. The essence of istihsān is evident in its ability to shift legal rulings from a rigid qiyās approach to more appropriate, fair, and beneficial legal choices, without deviating from the framework of sharia principles. Thus, istihsān functions as an instrument of ijtihad that keeps Islamic law responsive while remaining based on the fundamental values of sharia. The main benchmark for the use of istihsān is the achievement of maslahat in line with the objectives of Sharia, both in the form of realizing benefits (jalb al-maṣālih) and preventing harm and damage (dar' al-mafāsīd). This principle shows that istihsān is not merely "simplifying the law," but rather choosing the provisions that are most beneficial and least harmful to humans, as long as they do not conflict with fundamental prohibitions such as usury, gharar, and injustice.

In the context of Islamic economics, the results of the study show that the application of istihsān is manifested in various forms of contracts and modern transaction practices. This can be seen in the salam contract, which allows transactions for goods that are not yet available with strict conditions for the capital needs of producers; the istiṣnā' contract, which accommodates orders for goods/manufacturing for industrial needs; mu'āṭāh sale and purchase, which recognizes transactions without verbal ijab-qabul because it has become a custom ('urf) understood as a form of willingness; and online shop and vending machine practices that validate agreements through digital and automatic mechanisms because they provide convenience, certainty, and efficiency in transactions. Thus, it can be asserted that istihsān has an important contribution in sharia economic fatwas, as it allows for dynamic development and modification of the law, so that Islamic law remains alive, contextual, and compatible with contemporary economic needs. The application of istihsān proves that sharia is not static, but capable of providing adaptive and equitable solutions to address the challenges of modern transactions, while maintaining the spirit of maqāṣid al-syarī'ah as the main orientation in establishing laws.

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