



## **NATIONAL HEALTH INSURANCE FROM THE PERSPECTIVE MASLAHAT MUADALAH AND SIYASAH SYARIAH**

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**Abstract:** This article aims to highlight the choice of health insurance fiqh that has been legally binding in the presence of MUI DSN-MUI Fatwa Number 98/DSN-MUI/XII/2015 concerning Guidelines for the Implementation of Sharia Health Social Security. This research examines the concepts of maslahat muadalah (maslahat keadilan) and siyasah sharia, which are realized to introduce the fiqh of health insurance offered in an effort to provide an alternative to fiqh for the Indonesian Muslim community related to this BPJS Kesehatan fiqh. This research is library research, whose data source is taken from books, journals, and other research. The result of this study is that, from the reconstruction of JKN fiqh using the theories of maslahat muadalah and siyasah sharia, it was found that if the state has promulgated a regulation that contains masalah muadalah even though it is a disputed fiqh, then the community is still obliged to follow and comply with it. If there is a conflict between the content of the regulatory material and the existing fiqh rules, a judicial review of the regulation should be submitted.

**Keywords:** JKN; Maslahat Muadalah; Siyasah Syariah

**Abstrak:** Artikel ini bertujuan untuk menyoroti pilihan fiqh jaminan kesehatan yang telah mengikat secara hukum dengan adanya Fatwa MUI DSN-MUI Nomor 98/DSN-MUI/XII/2015 tentang Pedoman Pelaksanaan Jaminan Sosial Kesehatan Syariah. Penelitian ini mengkaji konsep maslahat keadilan dan siyasah syariah, yang direalisasikan untuk mengenalkan jaminan kesehatan yang ditawarkan dalam upaya memberikan alternatif fiqh bagi masyarakat muslim Indonesia terkait fiqh BPJS Kesehatan ini. Penelitian ini adalah penelitian kepustakaan, yang sumber datanya diambil dari buku, jurnal, dan penelitian lainnya. Hasil penelitian ini adalah, dari rekonstruksi fiqh JKN menggunakan teori maslahat muadalah dan siyasah syariah, ditemukan bahwa jika negara telah menerbitkan peraturan yang memuat masalah muadalah meskipun merupakan fiqh yang disengketakan, maka

*masyarakat tetap berkewajiban untuk mengikuti dan mematuhi. Jika ada pertentangan antara isi materi peraturan dan aturan fiqh yang ada, maka harus diajukan judicial review terhadap peraturan tersebut.*

**Kata Kunci:** JKN; Maslahat Muadalah; Siyasah Syariah

## INTRODUCTION

Health insurance is one of the government programs aimed at realizing health equity and helping to reduce the cost of health recovery in the community. In the study of jurisprudence, this national health insurance has been in the spotlight because of the MUI fatwa (2015), which punishes that BPJS is an insurance that is included in the haram category. This certainly jolts the confidence of many Muslims who use this insurance a lot. In that year (2015) the response to the MUI fatwa on BPJS emerged, including *Itang*, who provided a solution so that *gharar* did not occur; the *tabarru* contract was used at the beginning of entering BPJS Kesehatan; the second to eliminate *maisir*; the BPJS funds were divided into three parts, namely *tabarru* funds, investments, and *ujrah* (wages). Furthermore, to eliminate usury, use the principle of social insurance (*at-takmin al-tabarru*).<sup>1</sup>

Khanifa, who provided a solution to the BPJS Kesehatan contract, which was considered by the MUI, did not meet the sharia requirements by using *shirkah taawuniah*.<sup>2</sup> In the following year, Sukardi explained that BPJS left many problems; in addition to untidy administration, there were things that were considered deviant from Islamic law. Another thing that Sukardi found was that JKN still uses conventional insurance instead of sharia insurance, so according to the author, JKN is included in the *syubhat* category.<sup>3</sup> This is also supported by a 2-year study after Sukardi, conducted by Najah, which concluded that the health insurance process at BPJS Kesehatan Bandung had been carried out in accordance with the provisions of the law but not in accordance with the provisions in the DSN-MUI fatwa Number 98/DSN-MUI/XII/2015 concerning Guidelines for the Implementation of Sharia Health Social Security.<sup>4</sup>

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<sup>1</sup> Itang, "BPJS Kesehatan Dalam Perspektif Ekonomi Syariah," *Ahkam* 15, no. 2 (2015): 10.

<sup>2</sup> Nurma Khusna Khanifa, "Tindak Lanjut BPJS Haram Melalui Reorganisasi Jaminan Sosial Kesehatan Berbasis Syirkah Ta'awun," *Syariat Jurnal Studi Alquran Dan Hukum* 1, no. 2 (2015): 12.

<sup>3</sup> Didi Sukardi, "Pengelola Dana Badan Penyelenggara Jaminan Sosial (BPJS) Kesehatan Dalam Perspektif Hukum Islam," *Mahkamah: Jurnal Kajian Hukum Islam* 1, no. 1 (2016): 9.

<sup>4</sup> Azminur Naila Najah, "Analisis Hukum Ekonomi Syariah Terhadap Pelaksanaan Jaminan Asuransi Kesehatan Di BPJS Kesehatan Bandung," *Jurnal Hukum Ekonomi Syariah* 5, no. 1 (2018): 14.

Wardaningrum and Pringgowijoyo concluded that BPJS Kesehatan is currently included in the emergency category, so it can still be used until later state health insurance is formed, which is managed according to sharia.<sup>5</sup> In line with the conclusions of Wardaningrum and Pringgowijoyo, Jumarni et al. still concluded that BPJS Kesehatan is legally haram and reasoned that health insurance is the responsibility of the government, not the community.<sup>6</sup> Meanwhile, Salamah and Rahman mentioned that in its management, BPJS Kesehatan does not distinguish between *tabarru'* funds and non-*tabarru'* funds.<sup>7</sup> The same thing was concluded by Hendra (2022) and Rahmah (2022), concluding that the contract system at BPJS Kesehatan is in accordance with sharia economic law and seriously that in practice it still contains *gharar* and *maisir*.<sup>8</sup> Likewise, Abdulrahman and Abbas still concluded that health insurance is still included in the haram category and is still allowed because it is included in the emergency category.<sup>9</sup>

Nine years have passed since the MUI fatwa on BPJS Kesehatan, and there is still no significant change in practice. This will certainly be read by the public, who will still conclude that BPJS Kesehatan is still haram based on the MUI fatwa. Different from these studies, the author examines the study of BPJS Kesehatan Islamic law in terms of the principle of determining Islamic law from the path of *maslahat* and combined with *siyasah sharia*, which in the author's search has not found a similar study in this matter.

This study seeks to examine how to describe JKN fiqh from the perspective of *maslahat mulà* and *siyasah sharia*. This research aims to find out how to understand JKN fiqh from the perspective of *maslahat mulà* and *siyasah sharia*. With this reconstruction, it is hoped that the Muslim community will get different opinions from different perspectives from the

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<sup>5</sup> Desi Tri Rahayu Wardaningrum and Yitno Pringgowijoyo, "Fatwa Badan Penyelenggara Jaminan Sosial (BPJS) Kesehatan Dalam Konteks Hukum Islam," *Jurnal Kewarganegaraan* 3, no. 1 (2019): 5.

<sup>6</sup> Jumarni, Hasan bin Juhanis, and A Satrianingsih, "Iuran BPJS Kesehatan Menurut Hukum Islam," *Journal of Students Research in Family Law* 1, no. 1 (2022): 20.

<sup>7</sup> Nilatus Salamah and Miftahur Rahman, "Pandangan Hukum Islam Terhadap Pengelolaan Dana Badan Penyelenggara Jaminan Sosial (BPJS) Kesehatan," *Jurnal Ilmiah Ekonomi Islam* 8, no. 3 (2022): 14.

<sup>8</sup> Joni Hendra, "BPJS (Badan Penyelenggara Jaminan Sosial) Ditinjau Dari Hukum Islam," *Normative Jurnal Ilmiah Hukum* 10, no. 2 (2022): 10. Lihat juga Diah Ayu Atika Rahmah, "Sistem Pengelolaan Yang Diterapkan Pada Program Badan Penyelenggara Jaminan Sosial (BPJS) Kesehatan Dalam Hukum Islam," *Jurnal Hukum Ekonomi Syariah* 5, no. 1 (2022): 12.

<sup>9</sup> Manswab Mahsen Abdulrahman and Ahmad Abbas, "Health Insurance Cover in The Light of Islamic Law," *Manchester Journal of Transnational Islamic Law Dan Practice* 19, no. 3 (2023): 13.

study of the determination of the law of *maslahah*. The next hope is that the Muslim community will no longer have a paradigm of doubt in participating in government programs in the form of national health insurance.

## RESEARCH METHODS

This research is library research whose data source is taken from books, journals, and another research. The approach used in this study is qualitative research with literature study. The author collects literature in the form of MUI fatwas related to the BPJS/JKN fatwa, articles discussing BPJS/JKN that the author considers to represent the response after the MUI fatwa on JKN. Then the author analyzes it from the side of just benefits (*maslahah muadalah*) and sharia studies. The limitation of this study is that it does not analyze in depth in terms of contract practice, transactions, fines, and the like that occur in BPJS/JKN practice.

## RESULT AND DISCUSSION

The reconstruction of reasoning in Islamic jurisprudence is very important as a way to discover and establish Islamic law. Knowledge of Islamic jurisprudence is indispensable for mujtahid to identify sharia law appropriately and offer solutions to problems related to Islamic law. Although Islamic law is influenced by space and time, interpretations by Muslims can change according to socio-historical conditions, social mobility, and the development of the times. Islamic law accepts interpretation, as long as it does not conflict with the goals and intentions of *sharia*. This interpretation then forms *fiqh* in the schools of Islam. When looking at legal texts (*nash*), not all developing problems can be explicitly answered in those texts. Therefore, it takes earnest efforts from experts to establish these laws using various methods such as Qiyas, consideration of benefits (*al-maslahah*), approach based on circumstances (*al-zari'ah*), and so on. BPJS Kesehatan is one of the state-owned enterprises, which is used by the state to provide social security related to the health of the Indonesian people. The principle of mutual cooperation is the principle used in this red plate health insurance. However, according to the study and became a fatwa of the MUI, it is stated that the implementation of BPJS Kesehatan is punished not in accordance with sharia principles with indicators of *gharar* (there is potential for ambiguity), *maisir* (has an element of betting) and *riba* (interest).

The term "*maslahat*" comes from the Arabic language (*al-mashlahah*) and has been adopted into the Indonesian language, which means benefit or an action that produces benefits. This term is used by scholars of *fiqh* proposal in the context of discussing the method used in *istinbath*, which is the process of establishing a law based on the postulates contained in the *nash*

(legal texts).<sup>10</sup> The *maslahat* method is a way of thinking to establish laws in Islam when there is no *nas* (direct legal text) or *ijma* (consensus of scholars) that regulates a problem. The determination of the law based on the consideration of benefits is very broad, giving the *mujtahid* the opportunity to establish the law. However, the use of this method must be carried out with full consideration and follow the procedures set by the scholars, in order to remain in accordance with *sharia* principles.

Meanwhile, *mulà* (justice) refers to the principle of justice in Islam, where the Qur'an encourages mankind to carry out justice in all aspects of life, especially in social life. Justice in Islam is not just about equality of rights, but rather about achieving a fair balance and comparability between the parties involved. This means maintaining justice by equalizing, aligning, and balancing various parties, not only in individual contexts but also in social contexts.

The verses of the Qur'an affirm the importance of justice as one of the foundations of social life, and demand that humanity act justly and do good in all things. Therefore, in the context of law and justice, this principle is emphasized to maintain balance and avoid similarities that may not be in accordance with the principles of Islamic justice.

In the *al-Munjid* Dictionary, the word *siyasah* is interpreted as decision-making, government, policy-making, supervision, management, or engineering.<sup>11</sup> Furthermore, *al-siyasah* can be interpreted as directing something in a way that produces benefits and avoids losses. In terminology, *siyasah* is the science of government that includes the regulation of domestic and foreign affairs, including domestic and foreign politics and social aspects of society. The goal is to organize life with the principles of loyalty and justice.<sup>12</sup>

*Siyasah* or Islamic legal politics refers to the regulation of general affairs in the government based on Islamic values. The main goal is to create benefits and prevent harm. In this context, general affairs in Islamic-based government include all aspects of social life, systems, and demands of the times, including law, legislation, finance, judiciary, executive institutions, and legal affairs in foreign and domestic relations. The politics of Islamic law involves basic theories and principles as well as the creation of

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<sup>10</sup> Abdul Azis Dahlan, *Ensiklopedi Hukum Islam* (Jakarta: Ihtiar Baru Van Hoeve, 1996). Jilid 6, h. 1143.

<sup>11</sup> Louis Ma'luf, *Al-Munjid Fî Al-Lughat Wa Al-A'lâm* (Beirut: Dâr al-Masyriq, 1986)., Lihat juga Ibnu Mandzur, *Lisan Al-'Arab* (Beirut: Darul Fikri, 1990). Jilid 6, h. 108.

<sup>12</sup> Suyuti Pulungan, *Fiqh Siyasah: Ajaran, Sejarah Dan Pemikiran* (Jakarta: Raja Grafindo Persada, 1999)., h. 21.

regulations in accordance with the principles of Islamic law to regulate all these aspects effectively and fairly.<sup>13</sup>

From the many literature that the author has presented in the introduction of this article, it can be seen that many academics conclude that BPJS still contains *gharar* (the principle of ambiguity) and *maisir* (the principle of gambling), although there are those who say that if there is still no health insurance with sharia principles, then BPJS Kesehatan which currently still exists (conventional), can still be used with the principle of emergency in *fiqh*. Of course, this gives to the public's trust in BPJS Kesehatan from the legal side. Many of the author's own family do not want to participate in this BPJS Kesehatan program, citing the illegality of the law. Despite responding to the issue, the MUI has stated that there is no statement about the haram of BPJS Kesehatan in its fatwa.

However, the fatwa on its haram is not without differences of opinion. Several fatwas from NU, MU, which stated that the BPJS Kesehatan contract is in accordance with sharia. According to the decision of the 33rd NU Congress on August 4, 2015, the BPJS Kesehatan law is considered permissible because BPJS Kesehatan is included in the concept of *shirkah ta'awun*, which is gotong royong (voluntary).<sup>14</sup> Meanwhile, Muhammadiyah itself collaborated with BPJS, thus showing that Muhammadiyah did not punish the non-sharia of BPJS Kesehatan. Of course, this must be understood that when differences of opinion still occur, and the government promulgates regulations that contain benefits, then from the side of *siyasah sharia*, it is an obligation for the community to follow it.

Laws and regulations made by the government will only lose their meaning if the public doubts the validity of Indonesia in the context of Islamic *fiqh*, especially related to regulations related to the majority of Muslims in Indonesia. The presence of law in society must be based on the legitimacy and recognition of the regulated society. Therefore, it is important for the government to consider and integrate the principles of Islamic jurisprudence in making regulations related to Muslims, so that these regulations can be accepted by the public and have the necessary authority. Al-Suyuthi in *Ashbâh wa an-Nazhâir*, mentions a rule:

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<sup>13</sup> Abdul Wahab Khalaf, *Politik Hukum Islam* (Yogyakarta: Penerbit Tiara Wacana, 1994), h. 56.

<sup>14</sup> Mughni Labib, "BPJS Kesehatan Dalam Perspektif Hukum Islam (Studi Fatwa Majelis Ulama Indonesia Dan Fatwa Nahdlatul Ulama)," *Jurnal Hukum Islam* 16, no. 2 (2018): 14.

تصرف الامام على الرعية منوط بالمصلحة هذه القاعدة نص عليها الامام الشافعي وقال منزلة الامام من الرعية منزلة الوالي من اليتيم

The government's policy towards its people is based on the concept of benefit. Imam Shafii took the analogy that the position of the government or ruler towards society is like the position of a guardian towards orphans. This analogy implies that when the state makes a policy that has been deeply considered regarding the impact of benefits and harms (*mudharat*), then citizens are expected to obey it. In this context, compliance with state policies is seen as an obligation, in line with the principle of benefit, which is the main basis for the formation of public policy. Al-Suyuthi gave the rule:

لا ينكر المختلف فيه، انما ينكر المجتمع عليه

That is: "Policies whose error levels are still debated should not be denied, those that can be denied are policies whose error levels have become an agreement or a joint decision."<sup>15</sup>

Various literatures on *fiqh siyasah* argue that the concept of the state is actually unknown in Islam. The concept referred to here is the state in its modern form, as it appears in Western countries and then translated into Arabic into *dawlah Islamiyyah*. This term is not found in the Qur'an or al-Sunnah. However, if what is meant by an Islamic state is an organization of power that includes the government, people, sovereignty, territory, and legal norms adhered to, then it is clear that an "Islamic state" exists. In addition, if what is meant is *dar al-Islam*, the concept does exist in classical literature that is still studied today. According to the author, every government policy regarding the affairs of this world and the hereafter that does not contain immorality must be obeyed, because this concept is generally mentioned in the Qur'an, for example as follows:

يَا أَيُّهَا الَّذِينَ آمَنُوا أَطِيعُوا اللَّهَ وَأَطِيعُوا الرَّسُولَ وَأُولِي الْأَمْرِ مِنْكُمْ فَإِنْ تَنَازَعْتُمْ فِي شَيْءٍ فَرُدُّوهُ إِلَى اللَّهِ وَالرَّسُولِ إِنْ كُنْتُمْ تُؤْمِنُونَ بِاللَّهِ وَالْيَوْمِ الْآخِرِ ذَلِكَ خَيْرٌ وَأَحْسَنُ تَأْوِيلًا (59)

God commands His servants to obey God, His Messenger, and their leaders. If there is a difference of opinion on certain issues, they must return the matter to the rules that have been established by Allah and His Messenger. This shows that they have faith in God and the Last Day, and this is the best interpretation. The concept that is generally built is that we

<sup>15</sup> al-Suyuthi., h. 71

are instructed to use the Qur'an and the sunnah as a reference in resolving any disputes that occur in society.

Since not all verses of the Qur'an are *qath'i*, so is the sunnah of the Prophet, since the time of the Companions there have been various different interpretations. As a result, the Islamic law that was established was not singular, but the difference in *ijtihad* in Islamic law was not considered wrong.

The concept of *ijtihad* built by Imam Hanafi, Imam Maliki, Imam Shafii, Imam Ahmad bin Hanbal, and other imams have similarities and differences. This is certainly influenced by the *nash* used and the ability of each imam to dig up and *istinbath* these postulates. In addition, the sociological conditions in the region where the priests lived also affected the way they practiced *istidlal*. Again, in answering within the limits of the leader's discretion on religious issues, it must be obeyed. *Al-Hadramiyah in Bughyah* mentions some of these limitations, namely:

” (مسألة : ك) : يجب امتثال أمر الإمام في كل ما له فيه ولاية كدفع زكاة المال الظاهر، فإن لم تكن له فيه ولاية وهو من الحقوق الواجبة أو المندوبة جاز الدفع إليه والاستقلال بصرفه في مصارفه، وإن كان المأمور به مباحاً أو مكروهاً أو حراماً لم يجب امتثال أمره فيه كما قاله (م ر) ... وقال ش ق : والحاصل أنه تجب طاعة الإمام فيما أمر به ظاهراً وباطناً مما ليس بحرام أو مكروه، فالواجب يتأكد، والمندوب يجب، وكذا المباح إن كان فيه مصلحة كترك شرب التنباك إذا قلنا بكرهته لأن فيه خسة بذوي الهيئات، وقد وقع أن السلطان أمر نائبه بأن ينادي بعدم شرب الناس له في الأسواق والقهاوي، فخالفوه وشربوا فهم العصاة، ويحرم شربه الآن امتثالاً لأمره، ولو أمر الإمام بشيء ثم رجع ولو قبل التلبس به لم يسقط الوجوب اهـ ”.

The conclusion is that it is obligatory to obey the government/state in all its orders, both physically and inwardly, as long as the orders do not contain haram and solemnity. If the state order is related to mandatory and sunnah matters, then the obligation to obey is strongly emphasized. Similarly, in the case of *mubah* that contains general benefits, such as the prohibition of smoking, even though we state that smoking is *makruh* because it contains substances that are harmful to the body. If the government orders its officials (ministers, governors, regents, sub-district heads, and others) to call on the public (through circulars or regulations) to prohibit smoking in public places such as markets and coffee shops, and the public continues to smoke in the area, then they are considered sinful. The

act of smoking, which was initially punished as *mubah* or *makruh*, changed its law to haram because it did not obey the state's orders.<sup>16</sup>

Not only in the *Bughyat*, other books also mention that obedience to the government as long as the command does not contradict the *Shari'a*, as mentioned by al-Haitami in his book *Tuhfat al-Muhtaj*.<sup>17</sup> In the book *al-Tasyri' al-Jana'i*, Audah (tth) presents a thesis as follows:

”تعتبر القوانين والقرارات واللوائح مكملة للتشريع الإسلامي؛ لأن الشريعة تعطي لأولي الأمر حق التشريع فيما يمس مصلحة الأفراد ومصلحة الجماعة...“.

Al-Audah stated that regulations or laws, government decisions and programs are considered part of the improvement of Islamic sharia, because *shari'a* gives the government the right to make laws that touch on the benefits and provide benefits to individuals and groups. The power of legislation in any Islamic country is allowed to provide legal sanctions for *mubah* acts (committed by the community) when the public interest demands so. Regulations or laws, decisions and programs issued by the legislative power must be obeyed in accordance with *shari'a* as long as they do not conflict with clear *nash*, general principles, and substance of *sh'ah*. If it is contrary to these things, then the law, decree and government program are null and void.<sup>18</sup>

According to the author, this confirms the concept of the obligation to obey the umara or leader as long as the policies, regulations, and programs he makes are included in the realm of the benefit of the people. Based on the general postulate of the Qur'an surah an-Nisa verse 59, as well as many *sahih*, *hasan*, and *dhaif* hadiths on it, it is also strengthened by the *ijmak* of the scholars, and the opinion of the scholars about the obligation to obey the legitimate government and the prohibition against it. The author interprets that a leader who is not as sharia wants and does not act in accordance with the sharia, should not be fought or rebelled against as long as the leader is still praying. So, what about the leaders of Islamic countries who make regulations to update Islamic law/*fiqh* whose nature is *iktilaf*/ difference? Regulations that are formed without following the rules of a certain school and seem to provide space for creativity in *talfiq* and

<sup>16</sup> Sayyid Abd ar-Rahmân bin Muhammad bin Husain bin Umar al-Masyhûr ba Alawî Mufti Diyar al-Hadramiyah, *Bughyât Al-Musyatarsyîdîn Fî Talkhîs Fatâwâ Ba'du Al-Aîmât Min Ullâmâ'i Al-Mutâakhirîn* (Beirut: Dâr al-Fikr, 2009)., Jilid 1, h. 189.

<sup>17</sup> Ahmad bin Muhammad bin Alî bin Hajar al-Haitamî, *Tuhfatu Al-Muhtâj Fî Syarh Al-Minhâj Wa Hawasy as-Syarwani Wa Al-'Ibâdi* (Mesir: Dâr Ihya at-Turâts, 1983)., Jilid 3, h. 71

<sup>18</sup> Abd al-Qâdir Audah, *Al-Tasyri' Al-Jana'i Al-Islâmi Muqâran Bi Al-Qânûna Al-Wadh'i* (Beirut: Dâr al-Kutub al-'Arabi, n.d.)., Jilid 1, h. 181.

superstition are still included in the scope of Islamic law itself. *Al-Hadramiyah*, mentioned:

”(مسألة: ك): عين السلطان على بعض الرعية شيئاً كل سنة من نحو دراهم يصرفها في المصالح إن أدّوه عن طيب نفس لا خوفاً وحياءاً من السلطان أو غيره جاز أخذه، وإلا فهو من أكل أموال الناس بالباطل، لا يحل له التصرف فيه بوجه من الوجوه، وإرادة صرفه في المصالح لا تصيره حلالاً“.

*Bughyah* explained that in interests that contain public benefits, the government may take contributions from residents, as long as it is not done in a way that is contrary to sharia. If it is carried out in violation of the provisions of sharia, then the act is included in the category of eating human property in an improper way. This action does not make the property and the action is halal, even though it is done in the name of the benefit of the people. This health benefit is one of the primary needs for the community. If they do not use BPJS, of course, the poor or people who happen not to have funds for treatment will experience difficulties. In the event that the state is obliged to guarantee public health can be justified, but the state has the right to collect or order contributions for the community to become funds that can be used to help each other Indonesian people regardless of race, class, and religion. In the study of *maslahah muadalah*, that BPJS Kesehatan contains clear benefits, benefits that are felt by many Indonesian people by not denying the existing shortcomings. In the view of *siyasa sharia*, that the Indonesian government has the right to regulate the concept of BPJS Kesehatan, with the consequence that the public is obliged to comply with it.

## CONCLUSION

The primary basis for the construction was the MUI fatwa that "prohibited" BPJS Kesehatan, which was implemented normally. However, not all perspectives align with the MUI's stance, as NU holds differing ideas from the MUI. This study concludes that according to the principle of benefit and *siyasa sharia*, if the state has enacted a regulation that yields a clear general benefit, it is incumbent upon the community to adhere to it. BPJS Kesehatan, in the context of *maslahah mulà*, has achieved the objectives of social justice for the Indonesian populace. Regarding *siyasa sharia*, although Indonesia is not an Islamic state, its government operates as *dar al-Islam*, necessitating adherence to its established regulations. The author contends that BPJS Kesehatan faces criticism for not adhering to sharia principles; nonetheless, due to the government's failure to enact amendments to the BPJS Kesehatan law, it remains classified within the permitted category. This study's shortcoming is its lack of in-depth examination of the year-to-year comparison of BPJS/JKN practices. Has there been a shift in practice before and after the MUI fatwa? The Muslim

community should unequivocally persist in utilizing BPJS Kesehatan as a means of aiding fellow individuals in the healthcare sector. BPJS Kesehatan must address the academic findings on conventional insurance practices to transition into a sharia-compliant insurance model, focusing on contractual agreements and fund management.

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