

The Binding Force of Islamic Legal Fatwas in Indonesia: Reassessing Their Position within the National Legal System

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Abstract: *Islamic legal fatwas occupy an influential yet legally complex position within Indonesia's national legal system. Although fatwas provide religious guidance and may shape institutional practices, their religious authority does not automatically confer the status of formally binding state law. This study examines the legal position of Islamic legal fatwas in Indonesia, the conditions under which their substantive provisions may acquire binding force, and the implications of their incorporation into state law for legal certainty. Employing normative legal research, the study uses statutory and conceptual approaches to analyze relevant legislation, legal doctrines, and scholarly literature concerning fatwa authority and the relationship between Islamic law and positive law. The analysis indicates that the legal significance of a fatwa depends on the distinction between religious authority, institutional compliance, and formal legal enforceability. The incorporation of fatwa provisions into an applicable statutory or regulatory framework may produce legally consequential obligations, but those consequences derive from the relevant legal instrument and the authority under which it operates. The study argues that fatwas should neither be treated as inherently binding state law nor dismissed as legally irrelevant. Instead, their legal effects must be assessed according to the applicable legal basis, institutional competence, and mechanism of recognition. This differentiated approach contributes to a clearer understanding of the relationship between Islamic legal authority and Indonesia's national legal system while emphasizing the importance of legal certainty and accountability in the incorporation of religious norms into state regulation.*

Keywords: *Islamic legal fatwas, Binding force, Indonesian legal system, Legal certainty, Islamic law.*

INTRODUCTION

Islamic legal fatwas occupy a distinctive position in Indonesia's plural legal system, where religious norms, state legislation, and social practices interact in shaping legal understandings and institutional decisions. As non-state legal opinions issued by qualified religious authorities, fatwas provide guidance on questions that arise in Muslim religious and social life. However, their position becomes more complex when they influence state regulation, institutional policies, or the resolution of legal disputes. The central issue is therefore not simply whether fatwas are legally binding, but how their religious authority interacts with the formal sources of law recognized by

should be distinguished from the binding force of the regulations that refer to or incorporate their provisions. Nasrudin et al. (2025) identify a transformation in the authority of DSN–MUI fatwas within the national legal system, showing how religious authority can acquire stronger institutional and legal significance through processes of recognition and incorporation. Madnur et al. (2023) similarly examine the transformation of *ijtihad* and fatwas from legal opinions into binding rules, while highlighting that formalization does not necessarily eliminate interpretive disputes. These developments make the legal status of fatwas an important issue for assessing the interaction between Islamic jurisprudence and modern state regulation.

Despite this growing body of scholarship, the binding force of Islamic legal fatwas requires further conceptual clarification. Studies of MUI’s religious and political authority explain how fatwas influence public discourse and institutional behavior, while research on Islamic economic law illustrates the mechanisms through which particular fatwas are incorporated into regulatory arrangements (Menchik, 2022; Nasrudin et al., 2025). However, the analytical distinction between religious authority, social or institutional compliance, and legally enforceable obligations remains essential. A fatwa may be respected by individuals or followed by an institution without necessarily possessing the status of legislation. Conversely, when a statute or an authorized regulatory instrument refers to a fatwa or adopts its substantive standards, the resulting legal obligation derives from the applicable legal framework rather than from the fatwa alone. Clarifying these distinctions is necessary to avoid both the underestimation of fatwas’ practical significance and the overstatement of their formal legal status.

This article therefore reassesses the binding force of Islamic legal fatwas in Indonesia by examining their position within the national legal system, the legal conditions under which their substantive provisions may acquire binding effect, and the implications of their incorporation into state law for legal certainty. It addresses three questions: (1) How are Islamic legal fatwas positioned within Indonesia’s national legal system? (2) Under what legal conditions can Islamic legal fatwas acquire binding force in Indonesia? and (3) How does the incorporation of Islamic legal fatwas into state law affect legal certainty and the relationship between Islamic law and national law? Using normative legal research, the article examines relevant legislation, legal concepts, and selected examples of regulatory incorporation. Its central argument is that the legal

force of a fatwa should not be determined solely by its religious authority or social influence; rather, it must be assessed according to the legal basis, institutional mechanism, and normative framework through which its substance is recognized or incorporated into the national legal system.

METHOD

This study employs normative legal research to examine the binding force of Islamic legal fatwas and their position within Indonesia's national legal system. This approach focuses on legal norms, principles, doctrines, and institutional mechanisms through which religious legal opinions may acquire legal significance. The research aims to distinguish religious authority from formal legal enforceability and to identify the circumstances under which the substantive provisions of a fatwa may be recognized or incorporated into state law. Normative legal research is appropriate because the central concern is the interpretation and systematic assessment of legal rules rather than the empirical measurement of social compliance (Negara, 2023).

The study applies two principal approaches: the statutory approach and the conceptual approach. The statutory approach examines relevant legislation, particularly Law No. 12 of 2011 concerning the Formation of Laws and Regulations, as amended by Law No. 13 of 2022, together with sector-specific regulations concerning Islamic financial activities and the application of sharia principles. The conceptual approach clarifies the concepts of religious authority, legal validity, binding force, and the incorporation of fatwas into positive law. Primary legal materials consist of relevant legislation and regulatory instruments, while secondary materials include peer-reviewed journal articles, scholarly books, and legal commentaries addressing fatwa authority, Islamic jurisprudence, and legal pluralism. These materials are selected according to their relevance, legal authority, and scholarly credibility.

The collected materials are analyzed qualitatively through legal interpretation and doctrinal analysis. The analysis proceeds by identifying the applicable legal framework, distinguishing religious legitimacy from formal legal enforceability, and examining how the substance of a fatwa may influence or become incorporated into legally binding regulations. The interpretation considers the wording of legal provisions, their systematic relationship with other rules, and the

institutional context in which they operate. The findings are then synthesized to assess the legal conditions and limits of fatwa enforceability and their implications for legal certainty within Indonesia's national legal system. This procedure provides a normative basis for determining whether the legal consequences associated with a particular fatwa arise from the fatwa itself or from the state regulations that recognize or incorporate its substantive provisions.

RESULT AND DISCUSSION

1. The Legal Position of Islamic Legal Fatwas within Indonesia's National Legal System

Islamic legal fatwas occupy a distinctive position within Indonesia's plural legal system because religious authority and formal legal validity operate through different institutional mechanisms. Fatwas issued by the Indonesian Ulema Council (Majelis Ulama Indonesia, MUI) provide religious legal opinions based on Islamic jurisprudence, but they do not automatically constitute legislation within the national legal hierarchy. Gillespie (2007) demonstrates how MUI fatwas can shape public debates and negotiations over religious authority, while Sirry (2013) shows that controversial fatwas can generate competing interpretations of religious legitimacy and public responsibility. These findings indicate that the influence of fatwas extends beyond the issuance of religious opinions. Nevertheless, their social or religious influence must be distinguished from formal legal enforceability under state law.

The legal status of fatwas must therefore be examined in relation to the constitutional and statutory framework governing Indonesia's legal system. Law No. 12 of 2011 concerning the Formation of Laws and Regulations, as amended by Law No. 13 of 2022, does not list MUI fatwas as an independent category in the hierarchy established by Article 7. This position does not eliminate their relevance as material sources of legal reasoning, particularly when legal questions involve Islamic normative principles. However, a fatwa's religious authority does not, by itself, establish a generally enforceable state obligation. The relevant inquiry concerns whether its provisions have been recognized through a legally authorized mechanism and whether the institution applying them possesses the requisite legal competence.

The distinction is also important in understanding the interaction between state law and religious norms. Hosen (2012) illustrates how disputes concerning halal certification and the

determination of Islamic religious observances reveal competing claims over the authority to interpret and implement Islamic norms. Such disputes demonstrate that religious authority, administrative competence, and formal legal validity may intersect without becoming identical. Accordingly, the legal position of a fatwa should be assessed by examining its normative basis, the institution invoking it, and the legal instrument through which its substance may acquire legal consequences.

2. Religious Authority, Institutional Compliance, and Binding Legal Force

The binding force of Islamic legal fatwas cannot be reduced to a simple distinction between binding and nonbinding opinions. Three dimensions must be distinguished: religious authority, institutional compliance, and formal legal enforceability. Religious authority derives from the credibility of the issuing institution and the jurisprudential reasoning supporting its opinion. Institutional compliance occurs when an organization adopts a fatwa as a reference for its policies, procedures, or internal standards. Formal legal enforceability, by contrast, requires an identifiable legal basis that authorizes the imposition of obligations and their enforcement within the national legal framework.

These distinctions help explain why a fatwa may have substantial practical influence without constituting legislation. An individual may follow a fatwa because of religious conviction, while an institution may adopt it as an internal compliance standard. Neither situation necessarily means that the fatwa itself has become a generally binding legal instrument. In examining MUI's institutional position, Mahendra and Junaidi (2023) distinguish the Council's role as a non-state religious institution from the formal authority exercised by state institutions. This distinction supports the argument that the source of an enforceable obligation must be identified independently of the religious legitimacy associated with a fatwa.

A different legal situation arises when a competent state institution recognizes or incorporates the substance of a fatwa into a statute or authorized regulation. In such circumstances, the resulting legal obligation derives from the applicable legal instrument and the authority under which it was enacted. The fatwa may supply substantive sharia standards, but its legal consequences depend on the mechanism of recognition and implementation. This interpretation avoids two opposing errors: assuming that all fatwas are legally irrelevant because they are absent

from the statutory hierarchy, and assuming that every fatwa automatically binds all individuals and institutions. A more precise assessment must identify the specific legal basis, institutional competence, and scope of the obligation in each case.

3. The Incorporation of Fatwas into Islamic Financial Regulation

Islamic finance provides an important example of the interaction between religious legal opinions and state regulation in Indonesia. Fatwas issued by the National Sharia Council of MUI (Dewan Syariah Nasional–Majelis Ulama Indonesia, DSN–MUI) provide substantive guidance concerning sharia-compliant financial products, contracts, and institutional practices. Article 26 of Law No. 21 of 2008 concerning Islamic Banking establishes a statutory connection between sharia principles, fatwas issued by the relevant authority, and regulatory implementation. This arrangement demonstrates that the legal consequences of a fatwa must be assessed in relation to the particular statutory and regulatory framework governing the relevant activity.

The legal significance of DSN–MUI fatwas is also evident in debates over the adequacy of their formal recognition. Renie (2021) discusses the role of fatwas in addressing regulatory gaps in Islamic economic activities and explains how some sharia standards have been incorporated into national regulations. The relevant distinction is between the fatwa as a source of substantive religious guidance and the legal instrument that gives its provisions regulatory effect. Consequently, the incorporation of a fatwa should not be interpreted as an automatic transformation of the entire document into legislation. The scope of its binding consequences depends on the wording, authority, and applicability of the relevant legal instrument.

The incorporation process also raises questions concerning institutional accountability and the distribution of regulatory authority. When a state regulator adopts sharia standards developed by a non-state religious institution, the legal framework must clarify the respective responsibilities of the religious body and the public authority. The regulator must act within its statutory powers, while the legal consequences imposed on regulated institutions must remain traceable to a valid regulatory basis. This is particularly important where financial institutions are required to comply with sharia standards as part of their licensing, supervision, or operational obligations. The central issue is therefore not whether religious expertise should inform regulation, but how its contribution can be incorporated through transparent and legally authorized mechanisms.

4. Legal Certainty and the Limits of Fatwa-Based Regulation

The interaction between Islamic legal fatwas and state law has direct implications for legal certainty. Uncertainty may arise when an institution treats a fatwa as mandatory without clearly identifying the legal source of that obligation, the authority responsible for enforcement, or the available remedies in the event of noncompliance. Such uncertainty can complicate the relationship between religious norms and positive law, particularly where regulatory obligations affect contractual rights, institutional responsibilities, or access to legal remedies. Legal certainty therefore requires that the enforceable consequences attributed to a fatwa be grounded in an identifiable and legally valid source.

The issue also concerns the accountability of institutions that rely on fatwas in decision-making. Religious authorities may possess specialized competence in Islamic jurisprudence, but their religious expertise does not automatically confer the legislative or coercive powers of the state. When a fatwa informs a state regulation, the resulting obligations must be evaluated according to the legal authority of the body adopting them, the scope of the relevant statutory delegation, and the principles governing the formation and application of legal norms. This approach preserves the contribution of Islamic legal reasoning while ensuring that the exercise of public authority remains subject to the rule of law.

The analysis supports a differentiated framework for assessing the binding force of Islamic legal fatwas in Indonesia. First, fatwas may possess religious authority based on jurisprudential reasoning and institutional recognition. Second, they may influence institutional conduct through voluntary adherence or internal compliance arrangements. Third, their substantive provisions may acquire enforceable legal consequences when recognized or incorporated through a valid legal instrument. These dimensions may interact, but they should not be treated as legally interchangeable. Reassessing the position of fatwas therefore requires attention to the legal basis of recognition, the competence of the relevant institution, and the mechanism through which the substantive provisions are implemented. This framework provides a basis for reconciling the practical significance of Islamic legal authority with legal certainty and the formal requirements of Indonesia's national legal system.

CONCLUSION

This study demonstrates that the binding force of Islamic legal fatwas in Indonesia cannot be determined solely by their religious authority or institutional influence. Fatwas issued by the Indonesian Ulema Council (MUI) occupy a distinctive position within the national legal system because their religious and jurisprudential legitimacy does not automatically confer the status of formally binding legislation. Their legal significance must therefore be distinguished across three dimensions: religious authority, institutional compliance, and formal legal enforceability. Although these dimensions may interact, they do not possess identical legal consequences. This distinction provides a more precise basis for understanding the role of fatwas within Indonesia's plural legal framework.

The analysis further indicates that the substantive provisions of a fatwa may acquire binding legal consequences when recognized or incorporated through an applicable statutory or regulatory instrument. The example of Islamic financial regulation illustrates that the relationship between DSN–MUI fatwas and state law depends on the relevant legal framework, the competence of the institution responsible for implementation, and the mechanism through which the provisions are adopted. In such circumstances, the enforceability of the resulting obligations derives from the applicable legal instrument rather than from the fatwa alone. Consequently, the legal status of each fatwa must be assessed contextually, with particular attention to its legal basis, scope, and institutional application.

This study contributes a differentiated framework for reassessing the relationship between Islamic legal authority and positive law in Indonesia. It argues that legal certainty requires a clear distinction between religious guidance and obligations enforceable by the state, as well as transparency concerning the legal basis for incorporating fatwas into regulatory arrangements. Such an approach recognizes the contribution of Islamic jurisprudence to legal development without disregarding the principles of legality, institutional competence, and accountability. However, this study is limited by its normative and doctrinal orientation and does not empirically examine how institutions interpret or implement fatwas in practice. Future research may investigate selected judicial decisions and regulatory practices to assess how the incorporation of fatwas operates across different legal sectors. Ultimately, a clear and legally grounded framework

for recognizing fatwas can strengthen the coherence of Indonesia's national legal system while preserving the distinction between religious legitimacy and formal legal validity.

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