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Fatwa and Digital Constitutionalism: Religious Authority and Public Expression in Indonesia

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Abstract

The Indonesian Constitution guarantees religious expression in the digital space. However, this expression can spark debate and controversy when it clashes with the authority of individuals issuing fatwas online. This study analyzes the interaction between religious views and the Constitution in Indonesia, especially regarding citizens' constitutional rights to express religious fatwas in the digital public sphere. With *a digital constitutionalism* approach that involves a normative-comparative analysis of the Indonesian Constitution, the Human Rights Law, the Electronic Information and Transactions Law (ITE Law), the Personal Data Protection Law (PDP Law), and other relevant regulations, this study finds that the religious fatwas of *ustadz* (religious teachers) in the digital space invite debate/controversy. On the one hand, he has a constitutional right to express his religious opinions; on the other, the state regulates religious authorities who may express religious opinions in public. In practice, the state recognises an institutional fatwa (MUI) rather than an individual fatwa, although an individual fatwa has greater influence than an institutional fatwa.

Abstrak

Konstitusi Indonesia menjamin kebebasan berekspresi dalam ranah keagamaan di ruang digital. Namun, ekspresi ini dapat memicu perdebatan dan kontroversi ketika berbenturan dengan otoritas individu yang mengeluarkan fatwa di ruang digital. Studi ini menganalisis interaksi antara pandangan keagamaan dan Konstitusi di Indonesia, khususnya terkait hak konstitusional warga negara untuk menyampaikan fatwa keagamaan di ruang publik digital. Dengan pendekatan *digital constitutionalism* (konstitusionalisme digital) melalui analisis normatif-komparatif terhadap Konstitusi Indonesia, Undang-Undang Hak Asasi Manusia, Undang-Undang Informasi dan Transaksi Elektronik (UU ITE), Undang-Undang Perlindungan Data Pribadi (UU PDP), serta regulasi terkait lainnya, studi ini menemukan bahwa fatwa keagamaan dari para ustadz (guru agama) di ruang digital memicu perdebatan dan kontroversi. Di satu sisi, ia memiliki hak konstitusional untuk mengekspresikan pandangan keagamaan pribadinya; di sisi lain, negara mengatur otoritas keagamaan yang diperbolehkan menyampaikan opini keagamaan di muka umum. Dalam praktiknya, otoritas yang diakui oleh negara adalah fatwa institusional (MUI) dibandingkan dengan fatwa individu, meskipun fatwa individu memiliki pengaruh yang lebih besar daripada fatwa institusional.

Keywords:
Digital Fatwa; Constitutional Governance; Cyber Law; Islamic Public Sphere.

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Introduction

Over the last two decades, digital technology has fundamentally changed how people access, interpret, and produce knowledge. These changes have significantly affected various aspects of human life, including the religious life of the Muslim Community. The emergence of the internet, social media, and other digital platforms has created new public spaces for disseminating information, shaping public opinion, engaging with and negotiating ideas, expressing religion, and articulating Islamic identity (Alam et al., 2024). In this atmosphere, religion is no longer limited to mystical and institutional sacred spaces, but is more intensely present in a dynamic, open, cross-community, and cross-geographical digital space (Bunt, 2018).

In Indonesia, as Minanur Rahman's data and conclusion indicate, in January 2022, there were 204.7 million internet users, up 1.03% from the previous year. In the last five years, the number of internet users in the country has increased by 54.25% compared to 2018. At the beginning of 2022, the percentage of Indonesia's population using the internet reached 73.7%, up from around 50% in 2018. This significant growth in internet users has a major impact on various aspects of society, including religion. This trend suggests further growth.

Conceptually and phenomenologically, research on the relationship between media and religion introduces the concept of mediatization of religion, where media is not just a channel for conveying religious messages but also shapes the logic, format, and meaning of religion itself (Hjarvard, 2011). Also, research on the muslim youth generation as a social group that grows and develops in a digital environment, and has different religiosity characteristics from previous generations, shows that they tend to build Islamic identity through the process of negotiation between traditions, personal experiences, and digital discourses that are consumed daily (Campbell, 2013). Furthermore, the global context shows how religion operates in the digital realm, with issues such as the ethics of artificial intelligence (AI), online radicalization, and digital governance as main concerns (Yilmaz, 2023). Research on the relationship between religious populism and digital authoritarianism shows how regimes use Islamic values to justify repressive control over digital technology (Shukri, 2023). This highlights the dynamics of religion in the digital space, which pits the right to freedom of expression against the government's constitutional obligation to regulate cyberspace.

Previous studies have highlighted various related aspects. Alexandra & Satria's (2023) research on cyber law provides insight into hate speech trends and their prevention efforts in Indonesia. In a study on digital Islamic governance, Rahman (2023) examines the government's role in countering the fringes of religious authority. Buddin et al.'s (2025) research on digital constitutionalism analyzes how Islamic discourse is constructed in digital and constitutional contexts. Rahmah's (2025) research on religious authority in digital spaces highlights Islamic practices among younger generations, who are influenced not only by scientific legitimacy but also by narratives, communication styles, and identity representations constructed online. Research by Sugar et al. (2026) on religious and state authorities concluded that the relationship between religion and the state in Indonesia is complex and cannot be separated absolutely, so proportional management is needed to keep religion a source of ethics, not a tool for political conflict.

Such matters have also been highlighted and received a constitutional response. *First*, the Electronic Information and Transaction Law (ITE Law) and the Personal Data Protection Law (PDP Law) function as the main legal framework that responds to the increase in cyber threats and the rampant abuse of digital technology in public spaces, as well as providing various provisions such as content moderation, the use of AI, and the protection of citizens' digital rights (Setiawan & Haris, 2024). Second, the court decision related to religiously motivated hate speech in digital media shows how the law seeks to balance freedom of expression with the protection of religious values and public order; for example, East Jakarta

District Court Decision No. 421/PID. SUS/2018/PN JKT. TIM on disseminating information that causes hatred/hostility based on SARA (Ainunnajib, 2019). However, in implementation, this often clashes with constitutional rights rooted in the guarantee of a sense of security of expression in the 1945 Constitution, especially Article 28G, Article 28D, and Article 28I (Salsabila et al., 2024).

Thus, this creates a real gap: freedom of religious expression on the one hand, but the state has a constitutional obligation to regulate cyberspace while protecting freedom of expression. Therefore, this study finds it urgent to discuss the patterns of relationships and regulations. This study examines the positioning of religious fatwas in relation to the Indonesian Constitution, the Rule of Law, and *maqāṣid al-sharī'ah* as a bridge between the right to freedom of expression and constitutional regulations. This research aims to provide a comprehensive analysis of the relationship and interconnection of religious fatwas, cyber regulation, and constitutional governance in Indonesia. This research seeks to strengthen cyber sovereignty and digital constitutionalism that consolidates freedom of expression, religious values, plurality, democracy, and public order, so that inclusive and sustainable digital governance role models are implemented.

Method

This research uses a juridical-normative approach. This juridical-normative research is carried out by examining Library Research materials. Thus, this research is descriptive-analytical (Rasjidi, 2007). The approach used is digital constitutionalism and the statute approach, namely, by examining the constitution, laws and related regulations. In addition, this study also uses a comparative approach through a descriptive comparative study of law (Marzuki, 2005).

The primary data of this study include, first, the Electronic Information and Transaction Law (ITE Law) and the Personal Data Protection Law (PDP Law), which are analyzed in depth to understand the legal framework that governs cyber regulation, freedom of expression, data privacy, digital security, and individual rights in the online context. Second, fatwas and religious views in the digital space, especially the digital fatwa of the Indonesian Ulama Council (MUI). *Third,* classical and modern Islamic legal literature is also used as a reference to understand the principles *of maqāṣid al-sharī'ah* and its application in the digital context. Meanwhile, the secondary data of this research consisted of books, journals, and other scientific papers related to cyber law, digital regulation and governance, and freedom of expression issues.

Data analysis is carried out qualitatively, based on these three complementary points. Namely, first, thematic analysis is used to identify the main issues arising from primary and secondary data, such as freedom of expression, data privacy, hate speech, and the role of religious authorities. Second, the study applies normative analysis to discuss existing legal norms—including those in the ITE Law, the PDP Law, and Fatwas—and align them with constitutional principles and *maqāṣid al-sharī'ah*. Third, the study conducted a comparative analysis of the subject matter, value content, and spirit of the ITE Law, the PDP Law, and the Fatwa, revealing similarities, differences, and contextual relevance. To ensure data validity, this study used triangulation, drawing on multiple data sources and analytical methods to verify the findings. The study matched information from various sources and analyzed primary and secondary data in depth to produce a comprehensive interpretation of the relationship between digital fatwas, digital governance, and the Indonesian Constitution.

The Constitution & the Right to Expression Configured by Digital Algorithms

Information and Communication Technology affects the dynamics of human rights protection, especially freedom of expression. Historical developments, as well as economic and technological factors, have shaped freedom of expression. Freedom of expression is an important prerequisite for the survival of democracy (Zada, 2023), so a representative state must protect it and protect individuals as dignified, free, and independent entities, not shackled by authoritarian tyranny (Elly, 2025). In the digital context, freedom of expression gives every individual the opportunity to express their opinions or arguments about government policies, social issues, and political issues openly and transparently (Syamsidar et al., 2023). This freedom is recognized by the 1945 Constitution, Article 28E, which affirms the right of everyone to freedom of opinion and expression (Salsabila et al., 2024), and this is also in line with the Universal Declaration of Human Rights by the United Nations (UN) contained in Article 29 (Harahap, 2000).

In addition, algorithmic domination and hegemony regulate what users see, read, and consume, shaping a reality heavily influenced by the platform owner's commercial and political logic. An individual using digital space may swallow information from existing platforms without questioning its truth; and digital space can also become an arena for attacking other users through framing, defamation or blasphemy (Avelar, 2025). Moreover, this is coupled with the rise of Artificial Intelligence (AI), which makes false narratives seem more real.

Edoardo Celeste (2019), in his research, concluded that digital technology leads to many conveniences. Still, as it develops, this technology creates new fundamental rights while also threatening existing rights in the digital space. The Constitution therefore plays a crucial role in addressing digital technology. So, Edoardo Celeste (2019) presented the concept of digital constitutionalism: "... therefore one could define it as the ideology which aims to establish and to ensure the existence of a normative framework for the protection of fundamental rights and the balancing of powers in the digital environment..." Digital constitutionalism is a theoretical framework that examines how constitutional principles—such as freedom of expression, privacy, and the rule of law—are applied and enforced in the digital realm (Buddin et al., 2025).

In addition, the concept of digital sovereignty is also relevant; according to Pierre Belanger, "Digital sovereignty is a control of our present and destiny as manifested and guided by the use of technology and computer network" (Gueham, 2017). Cyber sovereignty refers to a country's claim to sovereignty in cyberspace, including the right to regulate online activities on its territory (Shukri, 2023). The 7th President of the Republic of Indonesia, Joko Widodo, in one of his speeches at a briefing activity for participants of the XXIV Batch Short Education Program (PPSA) and alumni of the 2023 Regular Education Program (PPRA) LXV of the National Resilience Institute (LEMHANNAS) at the State Palace, Jakarta, on Wednesday, October 4, 2023, stated that "We must protect our digital sovereignty and really maintain local content, local goods. If we cannot do 100% of our goods, then at least 90%, 80% of the local content. Take good care of our digital assets, take good care of data, information, market access, everything," he said (Jokowi, 2023). This indicates the government's seriousness in strengthening digital sovereignty. Previously, Indonesia faced several cyber threats, from malware and ransomware to cyberwarfare (CSIRT Kemhan RI, 2021).

Furthermore, both the concept of Digital Constitutionalism and the concept of Digital Sovereignty in the Indonesian context are implemented in the Electronic Information and Transaction Law (ITE Law), namely Law Number 11 of 2008 as amended by Law Number 19 of 2016 and finally by Law Number 1 of 2024, as the main legal basis for regulating digital activities and cyberspace in Indonesia (Anggen & Sarjana, 2023). Before the introduction of special regulations on personal data protection, the ITE Law served as the normative foundation for governing digital activities, so it plays a contextual and structural role in

Indonesia's digital legal system (Akbar et al., 2025). Second, the Personal Data Protection Law (PDP Law), namely Law Number 27 of 2022, is a special regulation that comprehensively regulates the definition of personal data, data classification, data subject rights, the obligations of data controllers and processors, as well as the mechanism of supervision and law enforcement in Indonesia (Priyadi et al., 2025).

Interestingly, the PDP Law adopts universal data protection principles aligned with international practice, such as lawful and fair processing, purpose limitation, data minimization, accuracy, storage limitation, and accountability. These principles place individuals as the legitimate owners of their personal data and limit the space for data controllers to use personal information. In fact, the PDP Law encourages institutional responsibility for electronic system operators through data security obligations, reporting of leak incidents, and compliance with data protection standards (Arief & Purwanto, 2025).

Theoretically, the integration between the Information and Electronic Transactions Law (ITE Law) and the Personal Data Protection Law (PDP Law) should be understood through a regulatory governance framework, which emphasizes the importance of coherence, coordination, and consistency between regulations in dealing with technological, social, economic, and market complexities. This theory views law not as a stand-alone rule, but as part of a governance ecosystem involving the state, business actors, and society (Levifaur, 2010). In addition, the information privacy theory approach emphasizes that privacy is a fundamental individual right that must be protected through a combination of legal norms, technical mechanisms, and institutional ethics (Abdullah et al., 2025). Within this framework, the ITE Law serves as a guideline for digital spaces and a regulator of electronic activities more broadly. At the same time, the PDP Law protects the substance of the right to privacy and regulates in detail the relationship between data subjects and data managers. Together, they create an ethical and accountable data protection landscape.

In his presentation of the article, Ardika (2025) presented various results of previous research that showed that countries that have comprehensive and integrated data protection regulations tend to have a higher level of public trust, thus having a direct effect on the level of technology adoption, public participation in digital services, and the stability of the digital economy ecosystem. These findings strengthen the argument that the synergy between the ITE Law and the PDP Law is not just a normative need, but a structural prerequisite for the sustainability of Indonesia's digital economy. In addition, Utami et al. (2025) concluded that data protection regulations will not be effective without optimal technical implementation, adequate cybersecurity standards, accountable supervision mechanisms, and compliance by electronic system operators with legal provisions. These findings strengthen the argument that the effectiveness of the ITE Law and the PDP Law depends on consistent law enforcement and cross-sectoral policy integration.

Nevertheless, an anomaly occurred. Namely, the ITE Law aims to keep the digital space clean, healthy, and productive, and to protect the public from cybercrime. However, several articles in the ITE Law, such as articles 27, 28, and 29, are considered open to multiple interpretations and vulnerable to politicization, potentially curbing freedom of expression (Afisa et al., 2024). Saraswati's research (2020) describes cases where criticism of the government or expressions of disappointment on social media are criminalized under the pretext of violating the ITE Law, which has a deterrent effect, limits the space for public discussion, and has an impact on the decline in the quality of democracy and even leads to violations of human rights principles. In line with this, research by Rahmadani et al. (2024) on digital regulation and its implications for freedom of opinion in the ITE Law on Social Media Platforms in Indonesia confirms that the implementation of the ITE Law in Indonesia is still not fully aligned with democratic norms and human rights principles, so it has a negative impact because it makes people afraid to criticize the government, and even threatens and

weakens the right to freedom of expression. Therefore, the government and law enforcement officials need to consistently practice transparency, accountability, and participation in decision-making related to cyber regulations, and be open to supervision and evaluation from other parties (civil society).

Digital Public Sphere, Islamic Authority, and the Rule of Law

As a site of public policy and communication, public space is significant in this context (Malik, 2018). More specifically, the Islamic public sphere refers to public space where Muslims participate in discussions, debates, and opinion formation on religious and social issues (Dhar, 2011). The internet and social media have expanded this public space, allowing Muslims to interact, share information, and form online communities. However, this expansion also poses challenges related to misinformation, online radicalization, and intergroup conflict. This reality is often described as virtual space, New Media, and religion in cyberspace/religion in cyberspace (religious phenomenon in the cyber world) (Heim, 1994; Jinan, 2012; Hojsgaard & Warburg, 2005).

Specifically, Hojsgaard emphasized that religion in the digital and cyber worlds manifests in two models: religion in cyberspace and religion in cyberspace. The religion in cyberspace model refers to religious information and activities that exist in cyberspace and represents religions, individuals, or religious groups that also exist in real life. In contrast, the religion in cyberspace model refers to the emergence of a religion that is exclusive and operates only in the cyber world, without a real existence in the physical world. In the context of religion in cyberspace, information technology and digital communication serve as a medium for conveying information about religious content and activities established or defined by religious traditions in real life. In contrast, in the phenomenon of religion in cyberspace, often referred to as cyber-religion, the internet becomes a creative and propagandistic arena that facilitates the formation of new religious content and activities online (Hojsgaard & Warburg, 2005).

For the context of Islam and its adherents, the penetration of digital technology and information into the realm of Islam has encouraged polarization and shifting of the Islamic authority from the domain *of 'ulamā-fuqahā* to Muslim intellectuals and new *da'i*, new micro-influencers, and digitally connected students (*new santri*). More than that, digital media has built a new arena for contestation between 'Islamic authorities' (Hamdeh, 2022; Saat & Burhani, 2020; Schmidt, 2021; Zamhari et al., 2017).

In Indonesia, social media da'i with millions of followers are common. For example, Felix Siauw, Hanny Bondy, and Evie Effendy are popular preachers without a background in conventional religious education or the linear Islamic scholarly hierarchy. Their popularity stems from their communication skills, their choice of themes that appeal to millennials, their ability to speak millennials' language, their strong congregation management, and their active presence on social media (Dewi & Fata, 2021). In addition, Abdul Shomad, Adi Hidayat, and Hanan Attaki are preachers with educational backgrounds in Middle Eastern Islamic institutions who do not have lineage from charismatic scholars with Islamic boarding schools and many students. Their popularity stems from their communication techniques for conveying Islamic themes in an unconventional, more argumentative way, and from their use of pop-culture logic (market-commercialist trends) (Akamaliah, 2020). From the context of this model, reformist Muslim intellectuals, da'i, 'instant experts', lay preachers, and entertainers may be able to become alternative voices to religious authorities (Iqbal, 2013).

In addition, the phenomenon of Muslim religious and intellectual institutions that create teaching and da'wah pages on the internet in the form of online mass media or social media from both salafi, Shi'a (Ida, 2017), and Sunni groups also marks the multiplication of competing authorities (Possamai & Turner, 2012), such as pages: nu.or.id, bincangsyariah.com, islami.co,

tafsirweb.com, muslim.or.id, rumaysho.com, islampos.com, eramuslim.com, hidayatullah.com, suaramuhammadiyah.id, portal-islam.id, almanhaj.or.id, al-mustaqbal.net, daulahislamiyah.com, konsultasisyariah.com, dutaislam.com, and so on.

In fact, transnational ideologies, for example, the "do it yourself" movement promoted by a Salafi jihadist, Muhammad Sultan al-Khujnadi, who invites the Muslim community to understand Islam only by referring to the Qur'an-Hadith and anti-madhhab to ulama, intercept and penetrate Indonesian Muslims as transnational Islamic authorities (Hamdeh, 2022). The recruitment of Salafi jihadists through the internet is part of the movement's strategy, because the anonymity, flexibility, and reach of the internet facilitate jihadist activists to consolidate, especially for women, to take an active role in the struggle (Sanchez, 2014). Through digital information and communication technology, the jihadist movement is providing ideological teachings and instructions, especially technical guidance on how to produce weapons, ammunition and explosives, without requiring physical presence (Ganor, 2021).

The transnational Islamic authority is clearly influential in Indonesia. The proof is the case of Dian Yulia Novi carrying a pot bomb to the State Palace in 2016 and previously undergoing a process of self-radicalization through statuses and articles about jihadists on websites and social media such as Facebook and Telegram. In addition, Siska and Dita attacked police at the Depok Brimob Mako in 2018. Siska is a student at the Indonesian Education University (UPI) in Bandung and admitted to studying ISIS teachings online. She joined ISIS in 2017 with the baiat of ISIS leader Abu Bakar al-Baghdadi through the Daulah channel on Telegram. Meanwhile, Dita has studied ISIS teachings since 2017, self-taught through WhatsApp groups and Telegram channels (Hakim & Mukhlis, 2023). In this regard, Bruce Hoffman noted that ISIS's new strategy is to empower and motivate individuals to commit acts of violence outside the chain of command of any terrorist (Hoffman, 1999). In this context too, Mark Sageman believes that the Internet has created a new generation of terrorists, which is called leaderless jihad (Sageman, 2008).

Thus, Islamic authorities in the digital world are increasingly numerous and compete with one another, shaping interpretations and shifts in Islamic discourse, including doctrine, appeals, and fatwas. This is reinforced by Anderson's research, which finds that these new interpreters are transforming Islamic discourse, as online presence and rhetorical presentation create power that marginalizes the traditional media in which religious leaders are recognized (Anderson, 1999). Turner (2007) states that global information and cultural technologies have an associative relationship with the breakdown of traditional forms of religious authority, as they expand conventional modes of communication, expand the number of people who can directly engage in dialogue with text, and open up new opportunities for them to discuss and create alternative visions of the global community. Turner (2007) then emphasized that, in this context, religious authority no longer derives from rational legal production by the state or from the charisma of traditional social figures and systems.

Regarding the state's regulatory authority, digital religious authority is increasingly complex. There is a dilemma. On the one hand, the state has an obligation to protect citizens' rights, including freedom of religion and freedom of expression. However, the state also has an obligation to maintain public order and prevent the spread of hate speech and misleading information. In this context, the state can use cyber regulations and governance, such as the ITE Law, PDP Law, Terrorism Law, or other related laws, to regulate online activities related to religious authorities, especially their digital appeals and fatwas (Sugar et al., 2026).

In this context, ITE Law and PDP Law are especially significant. The ITE Law regulates electronic information and transactions, including unlawful content such as hate speech, SARA, and misleading information. A digital fatwa that contains content considered to violate the ITE Law can serve as a basis for law enforcement action. For example, if a digital fatwa contains hate speech, acts of terrorism, incitement to violence, or discrimination against

certain groups, those who disseminate it can be prosecuted under the ITE Law and other provisions (Alexandra & Satria, 2023). Factually, this happened to, for example, Islamic preacher Sugik Nur Rahardja (Gus Nur) and ustadz Maher al-Thuwaibi, who have many followers in cyberspace, and were subject to the ITE Law and imprisoned for their calls and hate speech (Ramdhansari, 2020). In addition, there was also a case of blasphemy involving Muhammad Kece, Joseph Paul Zhang, and Saifuddin Ibrahim, who were subject to the ITE Law and the Blasphemy Law; Muhammad Kece was sentenced to 6 years in prison, while Joseph Paul Zang and Saifudin Ibrahim are still being hunted by law enforcement and have fled abroad (Riany et al., 2023).

MUI Fatwa & Efforts to Strengthen the Constitution

The state, through its legal apparatus, needs to strengthen moderate religious authority and rahmatan lil '*ālamīn*. This is based on the awareness of the reality that religion is not only present as a system of beliefs and ritual practices, but also as a powerful socio-political force, and religion is needed to continue to function as a source of ethics, morality, and social solidarity, not as an instrument of political conflict and media pollution (Sugar et al., 2026). According to Max Weber, religious authority can be seen as a form of power relations that give birth to moral, ideological, and even legal structures. Max Weber (1968) categorizes three types of authority: rational-legal, traditional, and charismatic. These three are manifested in the Indonesian Ulema Council (MUI). In this digital era, MUI plays a significant role through digital da'wah and Fatwa Applications (Wirianisa & Zen, 2023).

MUI is a forum for scholars from various Islamic organizations to deliberate and provide religious guidance to the ummah (*khādim al-ummah*) and moral input to the government (*ṣadiq al-ḥukūmah*). In terms of institutional status, MUI is a non-governmental religious institution that helps establish Islamic law views widely recognized in Indonesia. The MUI's authoritative religious views are expressed as fatwas, appeals, religious views, advice, and guidance (Silwana, 2023). Mudzhar (2012) explained that there are four basic attitudes that the MUI has that color its fatwas, namely: the desire to be accepted by Muslims, the desire to support the government, the desire to respond to the challenges of modern life, and the desire to maintain religious harmony while maintaining the integrity of Muslims. Meanwhile, for Wahidin Adams (2012), the MUI fatwa is an MUI decision on an issue that should or should not be implemented by the Government or the community.

N.E. van Duyvendijk places (law/norms) religion as part of the source of substantive law in the group of traditions: religious and moral opinions and traditions in the field of law. On the other hand, Utrecht includes (law) religion as a source of formal law, explaining that in areas of Indonesia where people's views of life are very bound by religion, the source of law (religion) is very important (Salim, 2012). Mahfud MD argues that MUI fatwa does not always have to be obeyed because it is a warning and appeal from a group of scholars to Muslims, so it is not legally binding. The MUI fatwa is only a reference for the majority of the community (Silwana, 2023). Although the position of the MUI fatwa in the national legal system is in the area of non-state law or living law, and it does not have formal binding power, the MUI fatwa often receives functional recognition from state institutions, such as Bank Indonesia, the Financial Services Authority (OJK), the Ministry of Religious Affairs, and the Halal Product Assurance Agency, among others (Ashar et al., 2026).

The law explicitly mentions the MUI and its fatwas. Namely, *First*, Law No. 40 of 2007 concerning Limited Liability Companies. This is contained in Article 109 paragraph (2): "The Sharia supervisory board as referred to in paragraph (1) consists of one or more sharia experts appointed by the GMS or on the recommendation of the Indonesian Ulema Council". *Second*, Law No. 21 of 2008 concerning Sharia Banking. This law includes at least two articles that

mention MUI, namely articles 26 and 32. Article 26 paragraph (2) states: "Sharia principles as referred to in paragraph (1) are fatwa by the Indonesian Ulema Council". Paragraph (3) states: "Fatwa as referred to in paragraph (2) is stated in the Bank Indonesia Regulation". In terms of sharia economics, this article argues that MUI fatwa is legally binding and the sole basis for Bank Indonesia Regulations in determining sharia principles in the economy (Ashar et al., 2026).

The MUI fatwa also plays a role in developing Indonesian law. These include *Law No. 3 of 2006 concerning Religious Courts, which states that Religious Courts are authorised* to resolve sharia economic disputes; before laws on sharia economics existed, the courts used MUI fatwa as a basis for deciding cases/disputes. *Second,* Law No. 44 of 2008 concerning Pornography is based on the Fatwa Decision of the MUI Fatwa Commission No. 287 of 2001 concerning Pornography and Pornography. *Third*, Law No. 40 of 2014 concerning Insurance, especially Sharia Insurance, is based on Fatwa 21/DSN-MUI/X/2001. *Fourth,* Law No. 3 of 2014 concerning Halal Product Assurance, whose substance is based on the MUI Fatwa (Darti, 2017).

Regarding the digital public sphere, MUI issued Fatwa Number 24 of 2017 on Mu'amalah on social media, which underlines the importance of maintaining ethics and morals in communicating, especially on social media (Muhammad & Rahardy, 2021). This MUI fatwa is a stipulation of Islamic law and a guide to Islamic morality that most Indonesian Muslims hold and obey (Satriani, 2020). Although MUI Fatwa No. 24 of 2017 does not have the binding force of state legislation, it provides religious and ethical guidance for Muslims in social media interactions. Its principles may complement the objectives of digital regulation, particularly in promoting responsible communication and preventing harmful online conduct (Arif, 2021).

MUI's contemporary fatwas use digital technology tools, including in how they are published to the public. Nevertheless, the discussion, expertise/authority of knowledge, validation, and methodology of MUI fatwas are believed to remain consistent within the scientific framework (Wibowo & Triadi, 2025). For MUI Fatwas, digitizing information and communication technology is only a means and instrument and does not significantly affect the scientific quality of the fatwa or the consistency of Islamic methodology and science. Indeed, digital transformation allows Muslims to move beyond passive consumption of fatwas and become active participants in digital 'interpretive democracy' through comments, online discussions, and remixing religious content (Rifai, 2020). As Muhammad Minanur Rahman (2023) notes, MUI Fatwas, both digitally and in practice, function as social controls that affect individuals in society.

Maqāṣid al-Sharī'a as The Spirit of Constitutional Regulation

The norms of constitutional order in the era of cyber religion can be formulated as follows: First, the norm of *ḥifẓ al-māl* (safeguarding material assets). Abdelmajid Najar (2008) categorizes *al-mukhīṭ al-mādī* (aspects of material assets) protected from the perspective *of maqāṣid al-sharī'ah* into two: *ḥifẓ al-māl,* meaning material assets that are owned and can be traded, and *ḥifẓ al-bī'ah*, meaning environmental material assets and social sharing. Furthermore, he discoursed on: *ḥifẓ al-bī'ah min al-talaf* (protecting the environment from damage), *ḥifẓ al-bī'ah min al-talawwuth* (protecting the environment from pollution), *ḥifẓ al-bī'ah min farthi al-istihlāk* (protecting the environment from excessive use), and *ḥifẓ al-bī'ah bi al-tanmiyyah* (protecting the environment with positive development).

In fact, the digital world is significantly influenced by algorithms. It can even be argued that a person's digital world is an environment of algorithmic authority. Algorithms direct, influence, and even shape internet users' behavior and views. Algorithms form circles among people with the same views. They reinforce each other's views of other users in the same

algorithmic circles. This algorithm operates silently, without warning, and invisibly. Algorithms work by using others' digital behavior (creating content, commenting, liking, sharing, and more). The algorithm then places users with similar digital behaviors in the same circle. This algorithmic circle, in turn, amplifies the views held by each "member". Through this mechanism, the algorithm emerges as a powerful new authority (Muttaqin, 2024). This may also apply to religion and socio-political ideological references.

For protection and countermeasures, the Ministry of Communication and Information (Kominfo RI) does three things: *First*, Kominfo RI independently and consistently closes access to content and accounts that spread harmful or unlawful content, including hate speech, Race, Religion, Ethnicity, and Social Groups/SARA-related content, and incitement to terrorism. *Second*, Kominfo RI collaborates with digital platform providers to close accounts that spread harmful or unlawful content. *Third*, Kominfo RI restricts access to some file-sharing features on digital platforms (Humas Sekretaris Kabinet RI, 2019). Furthermore, Kominfo RI supports the community through negative-content complaint sites; for example, if a crime is found on social media, the public can submit a detailed content complaint through a website owned by Kominfo RI, namely https://aduankonten.id/. This action aims to actualise *ḥifẓ al-māl* and *ḥifẓ al-bī'ah*.

Regarding algorithm control, especially by means of closing access and deleting content, this is factually an action in the area of public interest (*maṣlaḥah 'āmmah*). In the study *of maqāṣid al-sharī'ah,* the public interest (*maṣlaḥah 'āmmah*) is controlled (inhabited) by, *first, al-sulthah al-thabī'iyyah al-fitriyyah,* which is the ruler/natural occupant, and in this context, it can be interpreted as the internet user community. *Second, al-sulthah al-imāniyyah al-tarbawiyyah,* the ruler/guardian of ideology and virtue values commonly taught, which in this context can be interpreted as the authority of scholars and wise men. *Third, al-sulthah al-zajriyah al-tanfīdziyyah,* the ruler/implementer of law enforcement and public order, which in this context can be interpreted as Kominfo RI and the National Police of the Republic of Indonesia (Baza, 2008). All three need dialogue and synergy to maintain an orderly and constructive digital social media environment (*ḥifẓ al-bī'ah*). The substance of dialogue and synergy in harmony concerns the right to expression and democracy, fatwas that guard morality and ethics, regulations and governance of the 'digital world', and law enforcement and public order.

Second, *ḥifẓ al-'aql,* or maintaining intellect. Al-Ghazālī (1988) explained that the substance of *ḥifẓ al-'aql* is the safeguarding *of 'aql* in its functional spectrum as *alāt al-fahm* (instrument of understanding and understanding), *ḥāmil al-amānah* (person in charge of trust), *maḥall al-khiṭāb wa al-taklīf* (the object of Islamic law and positive state law), and *malak umūr al-dīn wa al-dunyā* (owner/core actor of religious and world affairs). Various parties are constantly striving to improve digital literacy and critical thinking among the public, distinguish accurate from false information, and avoid the influence of online radicalization that leads to acts of terrorism. Various parties are trying to increase positive educational content, entrepreneurship, useful skill tutorials, and motivation to love the homeland. Government stakeholders are seeking education to strengthen the capacity and integrity of law enforcers in handling cases involving religiously motivated hate speech and other cybercrimes.

Third, *ḥifẓ al-'irdh,* or maintaining dignity. Tāj al-Dīn ibn 'Abd al-Wahhāb al-Subukī (2003) stated that *maqāṣid al-sharī'ah* includes 6 human values*: al- dīn* (religion and belief), *al-nafs* (soul), *al-'aql* (intellectuality), *al-nasl* (heredity/regeneration), *al-māl* (material assets), and *al-'irdh* (dignity/authority). For example, MUI Fatwa Number 24 of 2017 concerning mu'amalah on social media prohibits *ghībah*, *slander*, *namīmah*, spreading hostility, bullying, hate speech, and hostility based on ethnicity, religion, race, or certain groups. This is intended to protect every person's dignity and prestige.

Abdelmajid Najar (2008) added that the main thing in *maqāṣid al-sharī'ah* is *ḥifẓ al-nafs* (safeguarding the soul/self), and this is manifested in two things: *First, ḥifẓ al-nafs bi daf'i al-'awādī,* which means to protect the soul/self by rejecting everything that harms the body. *Second, ḥifẓ al-nafs bi al-amn al-nafsī,* which means to protect one's soul/self by maintaining psychological and mental health. In this context, exceeding the limits of *ḥifẓ al-'irdh* can injure *ḥifẓ al-nafs*, inviting greater *mafsadat*. On this basis, the state is present by socializing the ITE Law and the PDP Law and actualizing them professionally and with integrity.

Fourth*, ḥifẓ al-nasl,* or maintaining continuity and regeneration. Abdun Noer Baza stated that among the implementations of *ḥifẓ al-nasl* is *al-muḥāfaẓah al-tarbawiyyah 'alā al-nasl,* which means teaching the science of marriage and domestication based on Islamic values to the next generation, for example, teaching the meaning of love, teaching *fiqh al-nikāḥ* and tips for fostering a happy household, and rejecting LGBT (Lesbian, Gay, Bisexual, and Transgender), anal sex (*liwāṭ*), adultery, and pornography.]This norm was actualized by Law No. 44 of 2008 concerning Pornography and Public Indecency and MUI Fatwa No. 287 of 2001 concerning Pornography and Public Indecency, which was later synergized with the ITE Law.

Conclusion

This study has examined the interaction between fatwa and religious views, cyber regulation, and constitutional governance in Indonesia. This study finds that Islamic authorities express fatwas and religious views in the digital public sphere, while the government also seeks to enforce digital constitutionalism and digital sovereignty. Consequently, a confrontation emerges between the right to freedom of expression and the Constitution. Here, constitutional regulation takes precedence. In this context, the MUI fatwa authority helps uphold the Constitution, and *maqāṣid al-sharī'ah*, as an Islamic worldview, infuses governance and constitutional norms to actualize transparency, accountability, and justice for all. In this regard, the findings underscore the importance of establishing clearer boundaries between legitimate religious expression and digital content that violates applicable laws. Such efforts should not result in excessive state intervention in religious discourse or privilege particular religious authorities over others. Instead, digital governance should be guided by legal certainty, proportionality, transparency, and respect for constitutional rights. Strengthening collaboration among religious institutions, government agencies, digital platforms, and civil society is therefore essential to ensuring that religious authority is exercised responsibly while preserving an inclusive and accountable digital public sphere.

Author Contributor

Irman Jaya: conceptualization, methodology, investigation, data curation, writing—original draft. Mohamad Shofin Sugito: conceptualization, methodology, validation, formal analysis, writing—review & editing, and supervision. Rohmat Dwi Putranto: conceptualization, methodology, and validation. Arrum Budi Leksono: writing—review & editing, supervision. Dzaka M. Hakim: conceptualization, methodology, validation, and formal analysis.

Declaration of Generative AI

This manuscript received limited assistance from an AI-based language tool (Grammarly and ChatGPT) for language refinement and grammar checking. The authors

critically reviewed and finalized all content and accept full responsibility for the published work. No AI tools were used for data analysis or interpreting findings.

Declaration of Competing Interest

The authors report no known competing financial interests or personal relationships that could have influenced the work presented in this paper.

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