

Towards an Integrated Sharia Governance Model in Indonesia: Legal Pluralism and the Reconfiguration of State Religion Relations in Financial Supervision

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Abstract

This study examines the functional relationship and institutional conflict between religious authorities namely the National Sharia Council of the Indonesian Ulema Council (DSN MUI) and the Sharia Supervisory Board (DPS) and state authorities, particularly the Financial Services Authority (OJK), in supervising sharia compliance within Indonesia's financial institutions. Employing a normative-qualitative method with a statutory and conceptual approach, the research analyzes relevant laws, DSN fatwas, OJK regulations, as well as a conceptualized model derived from legal approaches and public management theory. The findings reveal a structural gap: DSN MUI's fatwas significantly influence regulatory practice yet lack formal legal force, while OJK, despite its regulatory mandate, cannot substantively review those fatwas. Moreover, DPS appointments by financial institutions raise concerns about independence and public accountability. As a scholarly contribution, this study introduces the Integrated Sharia Governance Framework (ISGF), a model that proposes procedural integration between DSN MUI and OJK, strengthens DPS oversight, and embeds fatwas into formal regulatory processes without eroding religious autonomy. The ISGF serves as a normative solution to institutional fragmentation and offers a context-

sensitive approach to harmonizing religious authority with democratic rule-of-law principles in Indonesia's sharia financial governance.

Keywords: DSN–MUI governance; Sharia-fatwa accountability; OJK regulatory structure; Integrated Sharia Oversight Indonesia;

Introduction

In the constitutional architecture of Indonesia, the relationship between religion and the state is not constructed within a dichotomous framework of secularism versus theocracy, but rather in a symbiotic form that reflects the philosophical foundation of the state, namely Pancasila.¹ This ideology places the value of divinity as the moral foundation of national life, while simultaneously upholding diversity, democracy, and the rule of law. Philosophically, the relationship between religion and the state in Indonesia occupies a unique position neither entirely separating the two, nor fully merging them into a single entity.² Juridically, this construction is reflected in Article 29 of the 1945 Constitution of the Republic of Indonesia, which guarantees freedom of religion and affirms the state's recognition of the religions embraced by its people, while at the same time affirming state law as the legitimate and binding source of legal authority.³ However, tensions arise when the domain of the sharia economy particularly in the financial sector places religious norms within the realm of state regulation. Sharia-based financial institutions, which ideologically operate according to Islamic principles, are also required to comply with the positive laws established by the state through institutions such as the Financial Services Authority (OJK).⁴ Sociologically, the growing demand among Muslim communities for sharia-compliant financial services reflects an increasing awareness to align economic practices with religious values.⁵

¹ Muchamad Ali Safa'at, "The Roles of the Indonesian Constitutional Court in Determining State-Religion Relations," *Constitutional Review* 8, no. 1 (May 2022): 113, <https://doi.org/10.31078/consrev815>.

² Nadirsyah Hosen, "Religion and the Indonesian Constitution: A Recent Debate," *Journal of Southeast Asian Studies* 36, no. 3 (October 2005): 419–40, <https://doi.org/10.1017/S0022463405000238>.

³ Mahfud MD, *Politik Hukum Di Indonesia*, Cetakan ke 5 (Jakarta: Raja Grafindo Persada, 2012).

⁴ Tim Lindsey, "Monopolising Islam: The Indonesian Ulama Council and State Regulation of the 'Islamic Economy,'" *Bulletin of Indonesian Economic Studies* 48, no. 2 (August 2012): 253–74, <https://doi.org/10.1080/00074918.2012.694157>.

⁵ Sinollah Sinollah, Hasan Bisri, and Saed M Adam, "Philosophical Study of Islamic Economics: Theological and Empirical Perspectives," *Al-Insiroh: Jurnal Studi Keislaman* 11, no. 1 (March 2025): 1–19, <https://doi.org/10.35309/alinsyiroh.v11i1.362>.

Table 1 Increased interest in the Islamic banking market

Year	Market Share	Annual Growth
2017	5,79%	-
2018	5,97%	+3,11%
2019	6.18%	+3,51%
2020	6.52%	+5,50%
2021	6.75%	+3,52%
2022	7,02%	+4,00%

Source: Data processed from Financial Services Authority data (2022)

The market share of Islamic banking in Indonesia showed a consistent upward trend during the 2017–2022 period. Starting at 5.79% in 2017, it increased to 7.02% by 2022. The highest annual growth rate occurred in 2020 at +5.50%, marking a significant acceleration compared to the previous year. Although the growth slightly slowed in 2021 and 2022, it remained positive, indicating a gradual and continuous strengthening of the sector.

The urgency of this research stems from the pressing need to establish a sharia economic oversight architecture that is not only effective in a technocratic sense, but also normatively and constitutionally legitimate. Amid the growing prominence of the Islamic finance industry as an integral part of the national economic system, normative tensions have emerged between religious authorities (such as the National Sharia Council of MUI) and state regulators (notably the Financial Services Authority, OJK), particularly regarding the authority to define and enforce sharia compliance standards. For instance, while DSN-MUI issues fatwas that form the basis of sharia financial contracts, OJK retains regulatory control over implementation and auditing, which can result in discrepancies between religious doctrine and regulatory enforcement. Such dualism in normative authority risks diminishing public confidence in the system's integrity, especially when perceived deviations from sharia principles occur in regulated Islamic financial institutions.

The absence of a clear legal framework regulating the functional relationship between the National Sharia Council (DSN MUI) and the Financial Services Authority (OJK) creates a legal grey area regarding normative authority, decision-making processes, and legal accountability.⁶ Scientifically, this study is important because it opens space for critical evaluation of the sharia governance system, which has long been built on the assumption of institutional harmony between religious fatwas and state regulations despite frequent authority conflicts and overlapping jurisdictions in practice. Socially, this study is essential to

⁶ Zumiya Sanu Ibrahim et al., "Islamic Law and Human Rights: Convergence or Conflict?" *Nurani: Jurnal Kajian Syari'ah Dan Masyarakat* 24, no. 2 (November 2024): 431–48, <https://doi.org/10.19109/nurani.v24i2.19595>.

promote the development of a more transparent, equitable, and accountable governance system for Islamic financial institutions. Ultimately, this will strengthen Muslim public confidence in the national legal system and ensure that sharia principles are not merely symbolic, but are substantively implemented in the state's economic and financial practices

In this context, the study focuses on the functional relationship and institutional conflicts. The term *institutional conflict* in this study refers to situations where overlapping jurisdictions, inconsistent mandates, or ambiguous legal authority among institutions lead to friction, inefficiency, or confusion in governance, especially in regulatory or normative supervision. that arise between religious authorities namely the National Sharia Council of the Indonesian Ulema Council (DSN MUI) and the Sharia Supervisory Board (DPS) and the state regulator, the Financial Services Authority (OJK), within the framework of sharia compliance supervision of financial institutions in Indonesia. The core issue lies in the ambiguity surrounding the boundaries of normative and institutional authority among these three entities. DSN MUI, as a non-governmental religious body, holds the authority to issue sharia fatwas, which are practically adopted as normative standards within the Islamic finance industry. Meanwhile, OJK, as a state institution with regulatory and supervisory mandates, lacks the authority to intervene in the substance of those fatwas, yet still uses them as a reference in assessing the compliance of Islamic financial institutions. On the other hand, DPS serving as an internal supervisory body within financial institutions and appointed upon recommendation by DSN MUI faces serious challenges in carrying out its oversight function independently and objectively, due to its institutional attachment to the entity it supervises. This misalignment creates the potential for functional conflicts and overlapping authorities, which not only affects the effectiveness of sharia supervision, but also raises fundamental questions regarding legitimacy, accountability, and the recognition of religious authority within a democratic legal system.

This study aims to identify and analyze the functional relationship and institutional conflicts among the National Sharia Council of the Indonesian Ulema Council (DSN MUI), the Sharia Supervisory Board (DPS), and the Financial Services Authority (OJK) within the sharia compliance supervision system of financial institutions in Indonesia, as well as to evaluate the effectiveness of the current supervisory design in ensuring adherence to sharia principles. In addition, the study seeks to formulate an ideal model of institutional relations between religious and state authorities in the context of the sharia economy, taking into account the principles of Islamic law (*maqāṣid al-shari'ah*), the foundations of a democratic rule-of-law state, and the principles of good sharia governance.

Discussion

The Institutionalization of Religious Authority in the Modern State

The institutionalization of religious authority within the modern state entails not merely a transformation in organizational form but also a redefinition of the epistemic and political functions of religious scholars. In traditional structures, the authority of the *ulama* was grounded in moral legitimacy and scholarly competence qualities that were personal and responsive to the dynamics of the community. However, within the framework of the modern nation-state, this authority has undergone a fundamental transformation, becoming integrated into formal bureaucratic structures both in form and function. This phenomenon is observable in many Muslim-majority countries, where religious institutions no longer serve solely as spiritual guides but have become embedded in the state apparatus as instruments of public policy legitimation. In the Indonesian context, for instance, the enhanced role of the Indonesian Council of *Ulama* (*Majelis Ulama Indonesia*, MUI) as a state-recognized fatwa-issuing body in the economic and social spheres illustrates the extent to which the state actively shapes the trajectory and substance of religious authority.

One of the key consequences of this institutionalization process is a significant shift in the relationship between religion and the state from a traditionally oppositional dynamic toward a more complex symbiosis. As religious institutions are incorporated into the state's institutional framework, religious authority no longer operates autonomously but becomes subject to the logic of administrative governance and institutional political interests. Several studies have highlighted that this dynamic carries the potential to produce normative ambiguity, wherein religious norms function as a basis for regulation yet are not subjected to the same standards of accountability as positive law.⁷ When religious scholars (*ulama*) become integrated into the formal state apparatus, their capacity to function as critical voices against the state is significantly diminished. This integration may also undermine public trust in the independence of religion as a moral force, potentially eroding its legitimacy as an autonomous sphere of ethical guidance.

Within the architecture of the modern state characterized by an emphasis on standardization and administrative control the role of religious authority is often reduced to that of a technocratic actor, mediating between religious law and the governance logic of the state. At this juncture, the spiritual meaning and ethical relationships embedded in religious institutions risk being supplanted by pressures for efficiency, certification, and responsiveness to policy markets. As a result, institutionalization does not necessarily lead to the strengthening of

⁷ Nader Hashemi, *Islam, Secularism, and Liberal Democracy* (New York: Oxford University Press, 2009).

religious authority; instead, it may engender a structural dependency that gradually erodes its autonomy. This underscores the need to critically examine institutional designs that allow for the integration of religion into modern state systems without compromising the critical agency and ethical independence of religious institutions.

One of the most problematic consequences of the institutionalization of religious authority is the emergence of a legal vacuum in the oversight mechanisms governing religious norms that have been repurposed as public references. When a *fatwa*, for instance, is used as a basis for state policy but lacks formal legal status or judicial review mechanisms, it creates a gray zone between normative legitimacy and procedural accountability. In a constitutional democracy governed by the rule of law, any norm that exerts influence over citizens ought to be subject to principles of transparency and rational scrutiny. Yet in practice, *fatwas* adopted into the architecture of Islamic economic regulation often escape legal accountability frameworks, as they continue to be treated as scholarly religious opinions rather than binding public norms. The absence of appeal forums or participatory procedures in the formulation of such *fatwas* is not merely a technical administrative issue; it touches upon the very core of procedural justice within a legal state.⁸

The development of the Islamic banking industry in Indonesia has demonstrated its strategic role within the national financial system. As of 2023, there were 206 Islamic banking institutions, comprising Sharia Commercial Banks (*Bank Umum Syariah*), Sharia Business Units (*Unit Usaha Syariah*), and Sharia Rural Banks (*BPRS*), with total assets amounting to IDR 892.17 trillion and third-party funds (*Dana Pihak Ketiga*, DPK) reaching IDR 684.52 trillion. This extensive operational scope and substantial financing value indicate that the effectiveness of sharia supervisory systems including fatwa governance and the oversight function of the Sharia Supervisory Board (*Dewan Pengawas Syariah*, DPS) has a direct impact on the performance and credibility of the sector.

Table 2 Key Indicators of Islamic Banking in Indonesia in 2023

Banking Industry	Number of Institutions	Number of Offices	Assets (Rp. T)	PYD (Rp. T)	DPK (Rp T)
BUS	13	1967	594, 71	368,38	465,93
UUS	20	426	274,28	200,06	203, 32
BPRS	173	693	23, 18	17,03	15, 27
Total	206	2086	892,17	585, 46	684,52

Source: OJK Sharia Banking Statistics Report, 2023

⁸ Ihsan Yilmaz, *Muslim Laws, Politics and Society in Modern Nation States*, 0 ed. (Routledge, 2016), <https://doi.org/10.4324/9781315248509>.

The table above indicates that the Islamic banking industry in Indonesia has continued to experience significant growth. As of 2023, a total of 206 institutions were recorded, with aggregate assets reaching IDR 892.17 trillion and third-party funds (*Dana Pihak Ketiga*, DPK) amounting to IDR 684.52 trillion. These figures reflect a high level of public trust in the Islamic financial system and underscore the critical role of sharia supervisory mechanisms in maintaining that trust.⁹

As the Islamic financial system becomes increasingly integrated into public policy and the national economy, the effectiveness of its oversight mechanisms becomes critically important. The Sharia Supervisory Board (*Dewan Pengawas Syariah*, DPS) and the *fatwas* issued by the National Sharia Council of the Indonesian *Ulama* Council (*Dewan Syariah Nasional–Majelis Ulama Indonesia*, DSN-MUI) now serve functions that extend far beyond their traditional advisory religious roles. They have become integral components of the operational governance of Islamic financial institutions, including in the design of financial product structures and the formulation of internal audit procedures.¹⁰ However, in practice, this oversight has not yet fully adhered to the principles of public accountability comparable to those applied to state regulatory bodies. The imbalance between moral legitimacy and procedural legitimacy within the Islamic financial system may give rise to a gray area that is susceptible to institutional dysfunction.¹¹

The transformation of the role of *fatwas* in the Indonesian context is concretely reflected in their integration into the national Islamic financial governance system. *Fatwas* issued by the National Sharia Council of the Indonesian *Ulama* Council (DSN-MUI) no longer serve merely as normative references derived from *fiqh*-based *istinbath*, but have also gained structural reinforcement through functional recognition by state regulatory bodies such as the Financial Services Authority (*Otoritas Jasa Keuangan*, OJK). Although *fatwas* are not formally part of the legal hierarchy as defined in Law No. 13 of 2022 concerning the Second Amendment to Law No. 12 of 2011 on the Formulation of Laws and Regulations, they nevertheless acquire operational authority by serving as the basis for the formulation of OJK regulations, central bank

⁹ Otoritas Jasa Keuangan (OJK), *Laporan Perkembangan Keuangan Syariah Indonesia 2023: Momentum Akselerasi Pertumbuhan Keuangan Syariah Nasional Sebagai Tindak Lanjut Penerbitan UU PPSK* (Jakarta: Departemen Perbankan Syariah, Otoritas Jasa Keuangan, 2023), <https://www.ojk.go.id>.

¹⁰ Afif Noor et al., “Maslahah-Based Protection of Fund Recipients in Fintech Lending Through Empowerment and Justice,” *El-Mashlahah* 15, no. 1 (June 2025): 1–20, <https://doi.org/10.23971/el-mashlahah.v15i1.7786>.

¹¹ Lena Rethel, “Whose Legitimacy? Islamic Finance and the Global Financial Order,” *Review of International Political Economy* 18, no. 1 (February 2011): 75–98, <https://doi.org/10.1080/09692290902983999>.

provisions, and standard operating procedures within Islamic financial institutions.

For instance, DSN-MUI Fatwa No. 04/DSN-MUI/IV/2000 on *murabahah* has been directly adopted as a reference in the formulation of Bank Indonesia regulations and Financial Services Authority (OJK) circulars governing *murabahah* financing products in Islamic banks. This indicates that *fatwas* function not merely as scholarly references, but are also adopted as technocratic normative instruments with legal implications for the conduct of institutions and financial service providers. In practice, the introduction of any new sharia-compliant financial product whether in banking, insurance, or capital markets requires reference to DSN *fatwas* as an administrative prerequisite. This procedure illustrates the presence of a "binding force by policy," wherein non-legislative norms acquire binding authority through sectoral regulatory mechanisms.¹²

This condition reflects a model of state–religious authority relations that is not entirely separated but instead operationalized through institutional synergy. However, since *fatwas* are not subject to formal legislative processes or judicial review by the Supreme Court, public oversight over their normative substance remains limited. This presents a critical challenge in the design of national *sharia* governance: how to ensure that the use of *fatwas* in public policy adheres to principles of transparency, accountability, and openness to scholarly critique and community participation. In the absence of such mechanisms, there is a tangible risk that the operational role of *fatwas* may generate authority ambiguities within the state's legal system.

This situation is further exacerbated by the absence of an appeals forum or corrective mechanism for *fatwas* that have been operationalized. On the one hand, *fatwas* acquire a quasi-legislative status by serving as the basis for technical regulations issued by state regulators; yet on the other hand, they remain outside the formal structure of positive law and are not subject to normative review mechanisms like statutes, government regulations, or OJK regulations. This condition creates a legal gray zone between state law and religious law, potentially resulting in overlapping jurisdictions or even the duplication of normative authority. In the context of a democratic society governed by modern legal principles, this ambiguity poses a serious threat to public accountability and the fundamental right of citizens to access, evaluate, and critique the norms that govern their lives.

¹² Shaheen Amid Whyte, "The Ulama: History, Institutions and Modernity," in *Islamic Religious Authority in a Modern Age*, by Shaheen Amid Whyte (Singapore: Springer Nature Singapore, 2024), 29–53, https://doi.org/10.1007/978-981-99-7931-8_2.

The Functional Relationship and the Expanding Role of the Indonesian Ulema Council (MUI) in the Architecture of Sharia Supervision

The Indonesian Ulema Council (Majelis Ulama Indonesia, MUI) is a religious institution established by the state in 1975 during the New Order regime, initially aimed at integrating the voices of religious scholars (*ulama*) into the structure of state power within the context of political stability.¹³ Following the reform era and the growth of the Islamic finance industry, MUI has evolved beyond its traditional role of religious preaching (*da'wah*) and issuing general fatwas, assuming a strategic normative role in supervising the Islamic economic sector particularly through its institutional bodies such as the National Sharia Council (DSN MUI) and the Sharia Supervisory Board (DPS). This role has developed not only formally, but also substantively, shifting certain regulatory functions from the state to a non-state religious authority. It reflects a quasi-regulatory structure exercised by MUI through religious legitimacy, yet with binding effects within the domain of national economic law.¹⁴

The position of MUI within the architecture of sharia economic supervision illustrates a practice of co-regulation between religion and the state in the public sphere. Within this relationship, the DSN MUI functions as the primary producer of substantive sharia norms in the form of fatwas, which are then used as key references by state regulators such as the Financial Services Authority (OJK) in formulating operational provisions for Islamic financial institutions. The OJK itself lacks theological authority to define sharia compliance standards and therefore relies entirely on DSN fatwas to assess the conformity of financial products.¹⁵ This has led to the emergence of an asymmetrical functional relationship, in which the Financial Services Authority (OJK) holds administrative legal authority but is normatively subordinate to the fatwas issued by the DSN MUI. In practice, this creates a legal problem, as fatwas are not recognized as formal sources of law within Indonesia's positive legal system

One of the most tangible manifestations of the potential tension between normative religious authority and the regulatory authority of the state in the Islamic financial system is the implementation of default penalties, or *ta'widh*. Fatwas No. 17/DSN-MUI/IX/2000 and No. 43/DSN-MUI/VIII/2004 issued by the Indonesian National Sharia Council (DSN-MUI) stipulate that such

¹³ Freek Colombijn and J. Th Lindblad, *Roots of Violence in Indonesia: Contemporary Violence in Historical Perspective* (BRILL, 2021).

¹⁴ M. Kabir Hassan and Mustafa Raza Rabbani, "Sharia Governance Standards and the Role of AAOIFI: A Comprehensive Literature Review and Future Research Agenda," *Journal of Islamic Accounting and Business Research* 14, no. 5 (June 2023): 677–98, <https://doi.org/10.1108/JIABR-04-2022-0111>.

¹⁵ Eko Rial Nugroho, "Implementation Of Sharia-Compliance In Islamic Bank Product Innovations," *Prophetic Law Review* 3, no. 2 (December 2021), <https://doi.org/10.20885/PLR.vol3.iss2.art4>.

penalties may only be imposed on customers who deliberately commit default (*wanprestasi*), and any funds collected from these penalties must not be classified as institutional income, but rather must be allocated for social purposes. This principle underscores the moral and philanthropic orientation of Sharia, which prohibits profiting from non-compliance.

However, from the perspective of prudential regulation, the Financial Services Authority (OJK) positions default penalties as part of risk control mechanisms and as safeguards for the sustainability of financial institutions. Consequently, the recording, reporting, and management of such penalty funds fall within the broader framework of accounting and compliance. As financial accounting standards require every cash flow including penalties to be recorded within the institution's balance sheet, a clear implementation dilemma arises: how can *ta'widh* funds remain "non-commercial" while still being traceable, auditable, and consistently reported?

This situation reflects the absence of an integrated governance framework capable of bridging the normative authority of the DSN-MUI and the regulatory authority of the OJK. As previously observed, "if this structure is not governed within an integrative governance framework, growing institutional tensions are likely to emerge." These tensions are not merely administrative but touch upon the ontological friction between two legal systems religious law and state lawcoexisting within a single institutional domain.

Therefore, this study proposes the embryo of a new approach termed the 'Integrated Sharia Governance Model': a supervisory framework that not only ensures compliance with sharia principles but also guarantees that the involved authorities are subject to the principles of accountability in a democratic rule-of-law state. This model seeks to integrate the normative authority of DSN MUI with the legal legitimacy of OJK within an institutional structure characterized by mutual oversight and balanced public accountability.

Nevertheless, although the functional relationship between DSN MUI and OJK reflects a degree of synergy in the implementation of sharia economic principles, this synergy is built upon an unequal normative foundation, as there is no formal mechanism regulating the boundaries of authority, control, or inter-agency oversight. As a result, OJK as the state's administrative authority tends to adopt DSN's normative rulings without possessing the instruments necessary to conduct due diligence or substantive review of their sharia validity. This places OJK in a legally vulnerable position when inconsistencies arise between fiscal/monetary policies and substantive sharia principles. Such dependency illustrates a form of subtle institutional subordination, whereby the state authority

assumes a receptive stance toward norms produced by a non-state institution that is not subject to public accountability principles.¹⁶

From the perspective of state religion relations, this phenomenon reflects a form of normative interdependence that remains institutionally unresolved. MUI, as a religious authority, plays a role in the public sphere of the state but is not bound by the oversight principles of the rule of law. Conversely, the state relies on religious legitimacy to gain public trust in financial policies particularly in reaching the Muslim population that constitutes the core market for Islamic financial institutions. This relationship can be explained through the model of *'differentiated integration,'* an approach in which the state incorporates aspects of religion into formal institutions without fully incorporating religious institutions into the legal structure of the state. This model creates an ambivalence between state legal sovereignty and religious moral authority an arrangement that, in practice, is difficult to justify constitutionally.¹⁷

Empirically, such a design carries strategic consequences for the effectiveness of sharia economic governance. When fatwas issued by the DSN MUI become a prerequisite for launching sharia-compliant financial products, yet no independent verification standard exists outside of the DSN, normative power becomes consolidated in the hands of a single entity without a functioning system of checks and balances. The OJK assumes the role of an administrative gatekeeper that effectively ratifies sharia principles, rather than serving as a stakeholder with the authority or capacity to evaluate or review the substantive content of sharia. In this context, the central aim of this study to construct a balanced and accountable institutional framework for state religion relations in sharia oversight becomes more urgent.

Research by Rihab Grassa reveals that in practice in Indonesia, the position of the Sharia Supervisory Board (DPS) often serves merely as a structural requirement that is formally mandated in every Islamic financial institution, yet it does not always have a substantive influence on decision-making processes.¹⁸ The DPS's dependence on the institution that compensates them creates a potential conflict of interest, while the lack of clarity in reporting mechanisms and sanctions from regulators weakens vertical accountability in sharia oversight. This is further supported by Mukhibad's study, which shows that DPS oversight is often limited

¹⁶ Roberto Ventresca, "How to Make Sense of the Crisis of the International Economic System: The Emergence of the Group of Thirty and the Debate on Inflation (1978–81)," *European Review of History: Revue Européenne d'histoire* 32, no. 1 (January 2025): 64–88, <https://doi.org/10.1080/13507486.2024.2404016>.

¹⁷ Safa'at, "The Roles of the Indonesian Constitutional Court in Determining State-Religion Relations."

¹⁸ Rihab Grassa, "Shari'ah Governance System in Islamic Financial Institutions: New Issues and Challenges," *Arab Law Quarterly* 27, no. 2 (2013): 171–87, <https://doi.org/10.1163/15730255-12341254>.

to a formalistic document review, without a thorough evaluation of the contract structure and the operational implementation of products.¹⁹

The absence of a formal coordination structure between DSN MUI and OJK is also highlighted in these studies. While OJK adopts DSN fatwas as the normative basis for formulating OJK regulations, OJK lacks substantive authority to assess the sharia validity of these fatwas. This results in a duality of authority that could lead to dissonance between prudential regulation principles and sharia principles, especially in the development of complex financial products such as project-based sukuk or sharia derivatives.

Considering the theoretical discussion and empirical indications above, it can be concluded that the functional relationship between DSN MUI, DPS, and OJK in supervising Islamic financial institutions in Indonesia forms a complex pattern of institutional interdependence, which is not yet fully integrated in terms of legal and structural frameworks. The position of DSN MUI as the producer of substantive sharia norms, which are administratively adopted by OJK, illustrates an asymmetric co-regulation model, where the normative power of religion is not constrained by the state's public accountability system, while state authorities lack corrective authority over the substance of fatwas. This situation clarifies that although there is a mutually dependent supervisory function, the boundaries of authority of each institution do not yet have sufficient normative clarity, leaving a gap for potential conflicts in sharia governance.

The gap in sharia governance in Indonesia refers to the normative and institutional space that has not yet been legally integrated between religious authorities (DSN MUI and DPS) and the state regulator (OJK). This gap arises because DSN MUI fatwas, which serve as the primary reference for the development of sharia financial products and activities, are substantively binding for industry players but do not have formal legal binding force (*de jure*) within the national regulatory system. As a result, when deviations from fatwas occur, there is no legal mechanism that allows OJK to take direct action against the violators, unless the fatwa has been adopted into OJK regulations. On the other hand, DSN MUI, as the producer of norms, does not have executive authority or sanctioning power over violations in the field. This situation creates room for unilateral interpretation and evasion of responsibility by Islamic financial institutions.

A concrete example of this conflict gap can be found in the practice of *murabahah* contracts in Islamic banking. According to DSN MUI fatwas, *murabahah* must be conducted based on the principle of a clear sale, where the bank must first purchase the goods desired by the customer before reselling them

¹⁹ Hasan Mukhibad, "The Role of Sharia Supervisory Boards in Meeting Maqasid Syariah Study on Islamic Bank in Indonesia," *European Journal of Islamic Finance* No 13 (August 2019): 2019, <https://doi.org/10.13135/2421-2172/3620>.

with a profit margin. However, in practice, many Islamic financial institutions execute *murabahah* using an approach that resembles conventional interest-based loans, without the real transfer of ownership of the goods, making the contract more formalistic than substantive. This demonstrates that the fatwa is ignored or adjusted to fit business logic, while internal sharia supervisors (DPS) lack strong enforcement power to ensure consistent implementation of the fatwa. Another example occurs in the application of *ijarah muntabiyah bit tamlik* (IMBT), where the lease-to-own model, which should follow a gradual ownership scheme according to DSN fatwas, often fails to transfer ownership by the end of the contract period, even without a separate sale contract, which contradicts sharia principles. These two examples illustrate how gaps in normative and institutional conflicts create uncertainty in the implementation of sharia principles, as well as the weakness of vertical accountability between fatwas, oversight, and sanctions within the national Islamic financial system.

The Direction of Reformulating Sharia Governance and Integration Models

However, mere recognition of the existence of non-state norms is not enough. The real challenge lies in how these norms are institutionally managed so that they can function alongside the state legal system.²⁰ Without an adequate coordination framework, this diversity can lead to disharmony, both in regulatory practices and institutional structures. When two legal systems operate in the same space without a connecting mechanism, the risks that arise include overlapping authority and uncertainty in the enforcement of norms.²¹

In the Islamic financial sector, this approach becomes increasingly relevant because the normative nature of sharia cannot be separated from its theological dimension, which lies beyond the reach of the state's administrative authority.²² This is where the role of DSN MUI becomes significant. This institution has the authority to establish sharia guidelines, while the OJK holds control over the technical and administrative aspects of financial supervision. However, both have not yet been integrated into an institutional structure that systematically complements and oversees each other

However, in the practice of modern legal systems, the boundaries between these two functions often become blurred. The state, with all the complexities of

²⁰ Bryan S. Turner and Berna Zengin Arslan, "Shari'a and Legal Pluralism in the West," *European Journal of Social Theory* 14, no. 2 (May 2011): 139–59, <https://doi.org/10.1177/1368431011403459>.

²¹ Zulqarnain, "Is Sharia Economic Law Effective? A Critical Study of Indonesia's Islamic Economic Legal Framework," *Al-Istinbath: Jurnal Hukum Islam* 10, no. 2 (October 2025): 761–83, <https://doi.org/10.29240/jhi.v10i2.12952>.

²² Abdullahi Oyelekan Maruf, "Comparative Study of Islamic and Secular Economic Law in Nigeria: Implications for Policy Making," *Jurnal Ilmiah Mizani: Wacana Hukum, Ekonomi Dan Keagamaan* 12, no. 1 (April 2025): 33, <https://doi.org/10.29300/mzn.v12i1.5340>.

its legal needs, often adopts religious opinions into public policy.²³ In the context of Indonesia, the relationship between the fatwas issued by the National Sharia Council of the Indonesian Ulema Council (DSN MUI) and the role of the Financial Services Authority (OJK) illustrates a form of relationship that is not entirely conventional. Fatwas, which originate from religious discourse and are not intended to be legally binding, have instead acquired an important position within the Islamic financial supervisory system. Although lacking formal legal force within the legislative framework, these fatwas become part of the regulatory mechanism that functionally influences administrative decisions.

This situation often sparks debate, particularly concerning issues of authority and the legislative process. On the one hand, there is concern that the state's adoption of fatwas may be perceived as the implementation of religious law without following a legitimate legal procedure. On the other hand, a more progressive perspective within the framework of *maqāṣid al-shari'ah* argues that collaboration between the state and religious institutions can be justified, as long as it is intended to achieve public welfare (*maṣlaḥah 'ammah*).²⁴ This view has been articulated by several contemporary Islamic legal scholars, such as Wahbah al-Zuhayli and Muhammad Hashim Kamali, who argue that the incorporation of sharia norms by the state can still be accepted as long as it is done inclusively, transparently, and based on the principle of public accountability.²⁵

Based on the framework of Ibn Taymiyyah in *al-Siyasah al-Syar'iyyah* and reinforced by the concept of *maqāṣid al-shari'ah* from al-Ghazali in *al-Mustashfā*, the ruler is permitted to adopt public policies based on fatwas, as long as these policies aim to achieve and protect the five main objectives of sharia: *hifẓ al-dīn* (protection of religion), *hifẓ al-nafs* (protection of life), *hifẓ al-aql* (protection of intellect), *hifẓ al-nasl* (protection of lineage), and *hifẓ al-māl* (protection of wealth). Policies derived from fatwas or other religious norms can be translated into the positive legal system, as long as they do not contradict the principles of justice and collective welfare.²⁶ In this context, fatwas are positioned as ethical-normative norms that can serve as the basis for administrative decision-making by the state,

²³ Wael Hallaq, *The Impossible State: Islam, Politics, and Modernity's Moral Predicament* (Columbia University Press, 2012).

²⁴ Habib Ahmed and Abdulazeem Abozaid, "State Laws and Shari Ah Compatibility: Methodological Overview and Application to Financial Laws," *Journal of International Law and Islamic Law* 18 (2022): 123.

²⁵ Adis Duderija, "Islamic Law Reform and Maqāṣid Al-Shari'a in the Thought of Mohammad Hashim Kamali," in *Maqāṣid Al-Shari'a and Contemporary Reformist Muslim Thought: An Examination*, ed. Adis Duderija (New York: Palgrave Macmillan US, 2014), 13–37, https://doi.org/10.1057/9781137319418_2.

²⁶ Dahyul Daipon et al., "The Trade-Based Diversion of Three-Kilogram LPG Subsidies: A Contemporary Islamic Legal Perspective on Justice and Equity," *MILRev: Metro Islamic Law Review* 4, no. 2 (July 2025): 700–727, <https://doi.org/10.32332/milrev.v4i2.9733>.

without losing their independence as a product of *ijtihad*.²⁷ The state plays the role of channeling religious values into policies that are measurable, implementable, and subject to public accountability mechanisms.

This approach also allows space for institutional *ijtihad* that reflects the collective role of scholars (*ulama*) and the state in addressing new issues that are not explicitly explained in the primary texts (*nasy*). In practice, the existence of institutions like DSN MUI, which produce fatwas on Islamic economics, represents *ijtihad mu'assasi* (institutional *ijtihad*), which is adopted by the state as part of the regulatory system. However, to prevent abuse or *taqnin al-fatwa* (forced codification of fatwas), the state must provide a platform for dialogue between religious and state authorities within a transparent, participatory governance system that is open to corrections. In this way, policies derived from fatwas are not only legally valid (*syar'i*), but also democratically and constitutionally legitimate, making *maqāsid al-shari'ah* an ethical bridge between religion and the state in the modern legal system.

In the context of Indonesia, the collective *ijtihad* carried out by DSN MUI does not stand merely as a religious opinion, but has evolved into a technical guide in the rapidly growing Islamic financial sector. This process demonstrates that the state does not simply take over religious functions, but rather works to build a bridge between regulatory needs and religious norms that are already established and accepted in society. The influence of fatwas lies not in their coercive power, but in their ability to serve as a normative reference in policy-making by state institutions.

This approach finds its conceptual form in the Integrated Sharia Governance Framework (ISGF), which is designed to regulate the coordination between DSN MUI as the religious authority and OJK as the administrative authority. In this design, each institution continues to perform its function independently, but the processes are directed to complement one another. DSN continues to carry out its role as the institution that sets sharia principles, while OJK adopts these principles in the form of policies that align with public accountability and the positive legal structure.²⁸ This collaborative model creates a space for dialogue between the two sources of authority without blurring the boundaries of each institution's responsibility.

The concept of the Integrated Sharia Governance Framework (ISGF) arises from the need to bridge this relationship. This model seeks to establish a

²⁷ Abdurrohman Kasdi, "Actualizations of Maqāsid Al-Shariah In Modern Life; Maqāsid Al-Shariah Theory As a Method of The Development of Islamic Laws and Shariah Economics," *Justicia Islamica* 16, no. 2 (November 2019): 247–68, <https://doi.org/10.21154/justicia.v16i2.1666>.

²⁸ Sanuri et al., "Epistemological Transformation of 'Urf in the DSN-MUI Fatwa on E-Commerce: A Maqāsid al-Shari'ah Based Analysis," *Al-Manahij: Jurnal Kajian Hukum Islam*, July 10, 2025, 167–90, <https://doi.org/10.24090/mnh.v19i2.13145>.

structure that allows both authorities to carry out their respective functions in a coordinated manner. DSN MUI continues to produce sharia norms through fatwas, but the process is linked to a joint oversight mechanism to ensure alignment with public regulatory principles. On the other hand, OJK is strengthened with substantive capacity, enabling it to not only function as a technical regulator but also to understand the normative foundations that underpin Islamic finance itself.

Additionally, the role of the Sharia Supervisory Board (DPS), which has traditionally been more oriented towards the institution it belongs to, is now directed towards having broader accountability. By opening reporting channels to DSN and OJK, the DPS structure becomes part of an integrated oversight system. This approach not only redefines formal relationships but also represents the values of transparency, expertise, and public accountability that are integral to the spirit of regulatory governance.

These practices demonstrate that the integration of religious norms and the state legal structure can be realized through a systematic and transparent institutional design. In the context of Indonesia, the need to create a system that can unify these two authorities is becoming increasingly urgent as the Islamic financial sector becomes more complex. In response to this condition, the concept of the Integrated Sharia Governance Framework (ISGF) emerges as an alternative solution, offering a model of integrated oversight. ISGF aims to build a bridge between DSN MUI and OJK, without diminishing the role of each institution. Under this model, DSN MUI continues to carry out its function in establishing sharia norms, but with a more transparent process under public oversight through state institutions. At the same time, OJK is strengthened with a sharia supervisory unit that has the capacity to understand the substance of fatwas and assess their implementation objectively on the ground.

In this framework, the position of the Sharia Supervisory Board (DPS) is also reformulated so that its accountability is not only to the financial institution it serves, but also to DSN and OJK. Strengthening is achieved through national competency testing, cross-institutional reporting, and control mechanisms to prevent conflicts of interest. Such a design creates a more balanced space for cooperation between religion and the state in overseeing Islamic financial institutions, without negating the independence of each.

Table 2: Transformation of Sharia Supervision Architecture:
From a Fragmented Model to ISGF

No	Component	Current System	ISGF Model
1	DSN-OJK	Not Connected	Procedurally connected

2	DPS	Appointed by the institution	Public mandate (Competition and accountability)
3	Fatwa	Non-Binding	Formalized via review & Regulation

Source: Data processed by the author, 2025

The table above highlights the fundamental differences between the current sharia supervision system and the model proposed in ISGF. In the existing system, the relationship between DSN MUI and OJK is not formally linked, so coordination between the two remains informal and unstructured. In contrast, the ISGF model is designed to establish a procedural connection between them, ensuring that the implementation of fatwas and sharia oversight is more systematic and accountable. Furthermore, the Sharia Supervisory Board (DPS) is currently appointed by each individual Islamic financial institution, without processes that guarantee independence and public accountability. The ISGF model strengthens the role of DPS by giving it a public mandate, through competency testing mechanisms and cross-institutional reporting systems, making it more professional and accountable.

Therefore, the Integrated Sharia Governance Framework (ISGF) is not merely a technocratic institutional proposal, but a normative design that directly addresses the need for integration between religious and state authorities in sharia oversight. ISGF synthesizes the principle of religious autonomy with the demands of accountability within the rule-of-law state, without negating the role of either party. This model demonstrates that strengthening sharia oversight does not have to be achieved through subordination, but rather through structured collaboration and mutual oversight. In this position, ISGF not only provides a solution to existing structural problems, but also has the potential to serve as a conceptual foundation for the future reformulation of sharia governance, an agenda that will be discussed in the following section.

Integrated Sharia Governance Framework

Model Description

The Integrated Sharia Governance Framework (ISGF) is a governance model designed to harmonize the roles of religious authorities and the state in the oversight of Islamic finance. This framework emerges from the need to bridge the asymmetrical relationship between the National Sharia Council Indonesian Ulama Council (DSN-MUI), as the issuer of *fatwas*, and the Financial Services Authority (OJK), as the state regulatory body tasked with supervising the financial sector. To date, *fatwas* issued by DSN-MUI have been operationally adopted by both OJK and the Islamic finance industry; however, there exists no formal

mechanism for evaluating or exercising oversight over the substantive content of these *fatwas*.

The ISGF proposes a more structured and balanced system of cooperation between DSN-MUI and OJK. Under this model, DSN-MUI retains its authority as the issuer of *sharia fatwas*, but their implementation within the financial system must undergo a verification and supervisory process conducted by OJK. In other words, a *fatwa* is not automatically adopted as an operational guideline until it has been assessed in terms of governance standards, transparency, and compliance with the national legal system.

To ensure effective collaboration, the ISGF also proposes the establishment of a new coordinative body comprising representatives from DSN-MUI, OJK, and independent experts. This institution would be tasked with reviewing *fatwas* prior to their adoption into OJK regulations, evaluating their implementation within the industry, and resolving conflict.

Theoretical Foundation

The theoretical foundation of the Integrated Sharia Governance Framework (ISGF) is also grounded in the principle of *responsive regulation*, as developed by Ayres and Braithwaite, which emphasizes that effective regulatory oversight must be built upon dialogue, collaboration, and the institutional capacity to calibrate its responses according to the behavior of actors and the specificities of context.²⁹ Within this framework, the ISGF envisions the relationship between the DSN-MUI and the OJK not merely as a passive arrangement in which the state adopts religious norms without evaluative mechanisms, but rather as a dialogical relationship grounded in mutual accountability and the principle of due process of regulation.

Ultimately, the ISGF is not merely a technocratic construct, but a conceptual architecture that seeks to bridge the normative authority of *fatwas* with the administrative legality of the state within an institutional framework that ensures every norm with public applicability is subject to principles of transparency, public oversight, and legal rectification. At this juncture, the ISGF emerges not only as a pragmatic response to the asymmetrical authoritative relationship that has long characterized *sharia* financial oversight in Indonesia, but also as a conceptual proposition for reimagining the relationship between state and religion in the public sphere one that is more balanced, rational, and legally accountable.

²⁹ John Braithwaite and Ian Ayres, *Responsive Regulation: Transcending the Deregulation Debate* (New York: Oxford University Press, 1992).

Comparing the ISGF Model with Malaysia's Shariah Supervisory System

However, the effectiveness of such a highly hierarchical structure has its limitations. A centralized approach tends to hinder normative innovation in responding to the complexity of contemporary financial products, such as project-based *sukuk*, Islamic derivatives, or AI-driven fintech innovations. In this context, the ISGF offers an alternative solution through a cooperative, co-regulatory institutional model integrating the role of the DSN-MUI as an independent normative authority with the OJK as the administrative regulator of the state. This model operates on the basis of collaboration, joint validation, and public accountability. Rather than absorbing the DSN-MUI into the state bureaucracy, the ISGF seeks to recalibrate the functional relationship into one that is symmetrical and mutually corrective (*mutual oversight*) within a democratic public sphere.³⁰

Operationally, the implementation of the Integrated Sharia Governance Framework (ISGF) in Indonesia could begin with the establishment of a Joint Sharia Supervisory Committee (JSSC) a formal fatwa validation forum composed of representatives from both OJK and DSN-MUI. This committee would ensure that fatwa-based regulatory products do not conflict with fiscal prudence principles and consumer protection standards. Furthermore, the formation of a Regulatory Review Unit (RRU) within OJK is essential to conduct multidisciplinary analyses of the risks and policy implications of Islamic economic instruments, including assessments from the perspectives of financial system stability and market inclusion. On the other hand, DSN-MUI must strengthen its internal governance by establishing an Independent Fatwa Review Board and institutionalizing public consultation mechanisms, thereby ensuring that the fatwa formulation process is not opaque and that it is supported by robust public justification.

Conceptual Framework of the Integrated Sharia Governance Framework (ISGF)

In addressing the complex relationship between religious authority and the state in the supervision of the Islamic financial sector, there is a need for a conceptual framework capable of bridging the tension between normative authority and administrative power. The Integrated Sharia Governance Framework (ISGF) is developed as a hybrid model that offers an institutional design based on functional cooperation between the Sharia Council and state regulatory bodies, without subordinating either to a singular formal hierarchy. This model not only responds to the institutional gap between the DSN-MUI and the Financial Services Authority (OJK), but also constructs a more accountable

³⁰ Ahmad Alkhamees, "The Impact of Shari'ah Governance Practices on Shari'ah Compliance in Contemporary Islamic Finance," *Journal of Banking Regulation* 14, no. 2 (April 2013): 134–63, <https://doi.org/10.1057/jbr.2012.12>.

and responsive *sharia* governance architecture within the context of a democratic rule-of-law state.

The conceptual structure of the ISGF may be visualized as follows:



Picture 1 Integrated Sharia Governance Framework (ISGF)

The diagram above illustrates how *sharia* authority (DSN-MUI) and administrative authority (OJK) interact institutionally through nodes of coordination and joint validation. The process begins with the formulation of *fatwas* by DSN-MUI, which are then subjected to both normative and administrative validation by the Joint Sharia Supervisory Committee (JSSC). Upon passing this review, the *fatwa* may be adopted by OJK into formal regulation or operational policy. Simultaneously, the Regulatory Review Unit within OJK is responsible for conducting periodic assessments of the impact of *sharia*-based policies on the financial market and acts as a corrective partner in identifying potential normative biases that may conflict with prudential principles in financial supervision.

The ISGF model also includes the establishment of an Independent Fatwa Review Board within the internal structure of DSN-MUI to strengthen internal accountability and enhance transparency to the public. This component is essential to prevent the monopolization of interpretation and to ensure that normative decisions are grounded in a deliberative process that is both inclusive and professional. In this way, the ISGF functions not merely as an inter-institutional coordination model, but also as a catalyst for internal governance reform within the religious authority itself.

The implications of implementing the ISGF are far-reaching, particularly in fostering the integration of religious norms into the national legal system without compromising democratic principles and public accountability. Through this model, Indonesia has the potential to develop a *sharia* supervisory system that

is not only technocratically effective, but also normatively legitimate, institutionally inclusive, and adaptive to the evolving dynamics of the digital economy and the growing landscape of Islamic financial innovation.

Conclusion

This study reveals an imbalanced functional relationship between religious authorities (DSN MUI and Sharia Supervisory Boards) and the state regulator (OJK) in Indonesia's sharia compliance supervision system. The absence of procedural institutional connectivity between DSN MUI and OJK, coupled with the lack of public accountability standards for DPS at the financial institution level, has created a weak institutional environment. Within this framework, fatwas wield significant normative authority but are not fully supported by a binding formal legal structure. DSN MUI, as the producer of sharia norms, remains outside the positive legal framework, while OJK lacks theological competence to evaluate the substance of sharia norms causing both institutions to operate in parallel without meaningful integration.

As a synthesis of these issues, the Integrated Sharia Governance Framework (ISGF) is proposed as a reform model that enables functional integration between religious and regulatory authorities without undermining religious autonomy or the administrative sovereignty of the state. ISGF restructures institutional relations by establishing clear functional boundaries, strengthening public accountability mechanisms for DPS, and institutionalizing fatwas through a coherent evaluation and regulatory mechanism. Under this model, legal pluralism in Indonesia's constitutional system is no longer a potential source of conflict but becomes a constructive foundation for inclusive and democratic governance in the Islamic financial sector.

The theoretical contribution of this study lies in advancing the concept of legal pluralism within the field of Islamic economics. Whereas legal pluralism has traditionally been understood as the passive coexistence of state and religious norms, this study highlights the necessity of functional interaction grounded in transparency and accountability without subordinating one authority to another. In this respect, ISGF serves as a conceptual framework that demonstrates how sharia norms can be responsibly and democratically integrated into the national legal system.

From a policy perspective, the article proposes institutional reform pathways including the establishment of a Joint Supervisory Mechanism between DSN MUI and OJK, the formation of a Regulatory Review Unit, and enhanced public participation in normative decision-making. Moreover, supporting regulations such as a presidential regulation or amendments to the Islamic Banking Law are needed to formally acknowledge the role of fatwas as part of the regulatory legal system, while preserving their epistemological integrity.

For future research, empirical studies are needed to assess the effectiveness of ISGF in specific sectors such as Islamic microfinance and takaful (Islamic insurance), particularly in terms of supervisory performance and consumer protection. Further inquiry should also explore stakeholder perceptions among industry actors, DPS members, and religious communities regarding collaborative governance within the ISGF model, to ensure its adaptability and relevance in Indonesia's evolving sharia financial ecosystem.

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