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FROM FATWA TO REGULATION: STRENGTHENING HALAL TOURISM REGULATION IN INDONESIA IN THE PERSPECTIVE OF MAQ*ĀṢ*ID AL-SHAR*Ī*'AH

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ABSTRACT

The most complete halal tourism norms in Indonesia are actually contained in DSN-MUI Fatwa No. 108/DSN-MUI/X/2016, an instrument that has no legal binding. This paper maps the provisions of fatwas that have and have not been accommodated in positive law, compiles the priorities of their positivization based on maqāṣid al-sharī'ah, and determines the appropriate legal instruments. As a normative legal study, this paper examines the fatwa together with halal product guarantee regulations and the Tourism Law through a legislative, conceptual, and historical approach, including its latest amendment through Law No. 18 of 2025. The results show that of the 32 operational provisions of the fatwa, only six are accommodated, ten are partially accommodated, and sixteen have not been regulated. The largest vacancies are in sharia hotels and sharia travel agencies. The amendment to the Tourism Law in 2025 does not mention halal services. Based on the level of benefit, the provision of ḍarūriyyāt needs to take precedence as a binding norm, the provision of ḥājiyyāt is simply formulated as a standard of business and competence, while the provision of taḥsīniyyāt remains a fatwa guideline. Strengthening regulations does not require new laws, but can be pursued through claim-based business standards, government regulations on destination facilities, guide competency schemes, and regional regulations.

Keywords: *Halal tourism; DSN-MUI Fatwa No. 108/2016; positivization of Islamic law; maqāṣid al-sharī'ah; tourism regulation*

1. INTRODUCTION

The year 2016 was a turning point that determined the direction of halal tourism regulation in Indonesia. In August 2016, the Minister of Tourism revoked the Regulation of the Minister of Tourism and Creative Economy No. 2 of 2014 concerning Guidelines for the Implementation of Sharia Hotel Business on the grounds that the regulation was "no longer in accordance with the current demands and developments of tourism" (Regulation of the Minister of Tourism No. 11 of 2016). The revocation was not accompanied by a replacement regulation, so the Islamic hotel business lost the guidelines sourced from the state (Usanti, 2021). Two months later, the National Sharia Council of the Indonesian Ulema Council issued Fatwa No. 108/DSN-MUI/X/2016 concerning Guidelines for the Implementation of Tourism Based on Sharia Principles. The scope of this fatwa is much broader than the newly revoked regulation. The fatwa reaches hotels, tourists, destinations, spas and similar services, travel agencies, tour guides, contracts, and dispute resolution (Susilawati, 2023). Since then, the most detailed halal tourism guidelines in Indonesia are no longer held by regulators, but by religious institutions.

Almost a decade later, the situation has not changed much. The halal product assurance regime continues to be strengthened, starting from Law No. 33 of 2014, its amendments through Law No. 6 of 2023, to the latest implementation regulations in Government Regulation No. 42 of 2024. However, all of this strengthening rests on products, namely materials, processes, and labels, not on the services received by tourists. On the other hand, Law No. 10 of 2009 on Tourism does not contain an article that specifically regulates halal tourism. This law plays more of a role as a general umbrella that ministries and local governments refer to when formulating their own policies (Shulthoni & Masyhadi, 2023). The result is a typical inequality: the most complete halal tourism norms are stored in the instruments that are juridically the weakest.

This weakness stems from the position of fatwa in the national legal system. Law No. 12 of 2011 concerning the Establishment of Laws and Regulations does not mention fatwas as a type of legislation and regulations. Achmad and Thamrin (2024) describe the MUI fatwa as a religious opinion that is an encouragement and does not carry sanctions. Even so, fatwas have social authority that is often obeyed more by the ummah than government instructions. The authority only turns into a legal obligation when the content of the fatwa is adopted by state regulations. This kind of adoption path has actually been taken in Indonesia for a long time. In the field of sharia economics, the substance of the DSN-MUI fatwa has become a reference for the Compilation of Sharia Economic Law, Islamic banking regulations, and the basis for the issuance of state sukuk (Shinta & Mutian, 2022). In the field of halal products, the MUI has succeeded in encouraging its fatwas to be absorbed into the laws and regulations on halal product assurance during the Reform period (Mustafid et al., 2024). This experience shifted the issue of halal tourism from the question of "can fatwas become law?" to a more operational question: which part needs to be adopted, through what instruments, and by what measure.

Previous research on Fatwa No. 108 has answered some of these questions from different angles. Some researchers have observed how fatwas is implemented in the field or in public policy. Haerisma et al. (2023), for example, used six features of the Jasser Auda system approach to read the development of halal tourism on the island of Lombok. Wiryanto et al. (2024) followed the journey of this fatwa in the policy cycle and found that

only eight regional regulations were born as derivatives, so national policies are considered to need to be reformulated. Other researchers depart from the question of legal status. Susilawati (2023) concluded that Fatwa No. 108 does not have a position as a positive law and cannot be enforced. He also noted the weak enforcement, facilities, and public awareness, and then proposed the formation of a special law. Shulthoni and Masyhadi (2023) view state law and religious law in this field as complementary, with the main difference being their binding power. Rahmawati et al. (2025) found fatwa norms that were not known in the Tourism Law, such as the requirement that tour guides understand fiqh and have good morals, and then proposed that fatwas function as a lex specialis. In a broader scope, Santoso et al. (2022) explore the dynamics of halal tourism regulations in the digital era, and Ruhaeni et al. (2024) consider these policies against Indonesia's commitment to liberalize Indonesian services under the GATS.

A study that is directly related to the focus of this paper is a study that uses maq*āṣ*id al-shar*ī*'ah as a reading tool. Unsiyah et al. (2026) developed a maqāṣid-based halal tourism development model and noted that the five main objectives of sharia have not yet appeared as principles in national tourism regulations. Wajdi et al. (2026) examine contemporary halal tourism policies and conclude that the absence of a national framework has given birth to different regional policy patterns, while fatwas do not have legal coercion. The author's own comparative research on Indonesia, Thailand, and Vietnam ([Author's Name], in the process of being published) places Indonesia's problem on the power of binding norms, not on their availability. These three studies use maq*āṣ*id as a measuring tool to assess the good and bad of regulation. However, no one has used it as a selection tool to determine which norms should take precedence.

Departing from this mapping, there are at least three things that have not been touched. First, there has been no study that juxtaposes the provisions of Fatwa No. 108 one after another with the applicable laws and regulations. As a result, it is not known exactly which parts of the fatwa have obtained equivalents in positive law, for example through the regulation of halal product guarantees, and the parts that are only carried out on the will of entrepreneurs. Second, there has been no study that uses the sequence of *ḍ*ar*ū*riyy*ā*t as formulated by al-Syāṭibī (1997) to determine the priority of positivization. In fact, the order provides a clear measure of the most basic benefits. Third, existing proposals generally stop at the call for the formation of a national law or framework, without distinguishing between provisions that are sufficiently regulated through business standards and provisions that require ministerial regulations or regional regulations. In addition, most of these studies were written before Government Regulation No. 42 of 2024 took effect.

To fill this gap, this article explores three issues. First, the provisions of DSN-MUI Fatwa No. 108/DSN-MUI/X/2016 which have and do not yet have an equivalent in Indonesia's positive law. Second, how the hierarchy of maq*āṣ*id al-shar*ī*'ah can be used to sequence the provisions that need to be immediately given binding force. Third, what legal instrument is most suitable for each group of provisions. Thus, this article aims to produce three things: a map of the gap between fatwa and positive law, a priority order of positiveization based on benefits, and the direction of strengthening realistic halal tourism arrangements to be taken gradually. This article was born from a broader study, which compares the halal governance of the tourism sector in three Southeast Asian countries.

However, the question posed here is entirely Indonesia-centric, namely how norms move from the fatwa space to the regulatory space.

RESEARCH METHODE

This article is prepared as a normative legal research that relies on literature materials, with three approaches that support each other. The legislative approach is used to examine the content and position of each norm that regulates halal tourism. The conceptual approach is used to operationalize the idea of maqāṣid al-sharī'ah and the positivization of fatwa. A historical approach is used to read the regulatory journey, starting from the issuance of the sharia hotel guidelines in 2014, its repeal in 2016, to the enactment of the regulation on the implementation of halal product guarantees in 2024. The primary legal material is the DSN-MUI Fatwa No. 108/DSN-MUI/X/2016 as the main object, read together with a number of laws and regulations. The regulation in question is the Halal Product Assurance Law, namely Law No. 33 of 2014 which has been amended through Law No. 6 of 2023, along with its implementing regulation, Government Regulation No. 42 of 2024. In addition, the Tourism Law was also read, namely Law No. 10 of 2009 with the last amendment through Law No. 18 of 2025, as well as Law No. 12 of 2011 concerning the Formation of Laws and Regulations. The primary material also includes two ministerial regulations that mark the ups and downs of the regulation of sharia hotels, namely Permenparekraf No. 2 of 2014 and Permenpar No. 11 of 2016 which revokes them. Secondary materials include scientific articles and legal studies on halal tourism, the position of fatwa, and maqāṣid theory, including al-Syāṭibī's (1997) work as a classic reference. All materials are searched through the official website of regulatory publishers, DSN-MUI websites, and journal databases, with a search deadline of October 2026.

The analysis takes place in three steps that follow the order of the problem formulation. The first step is the mapping of norms. Each provision of Fatwa No. 108 is broken down according to the subject it regulates, namely hotels, destinations, spas and similar services, travel agencies, tour guides, tourists, as well as contracts and dispute resolution, and then the equivalent is sought in primary legal materials. The equivalent is classified into three statuses. A provision is declared to have been accommodated if the positive law contains the same norm and is binding. The provision is stated to be partially accommodated if the norm exists, but narrower or not binding specifically for tourism businesses. The provision is declared to be unaccommodated if the equivalent is not found at all. The second step is the determination of priority. Provisions that are partially accommodated or not accommodated are linked to the benefits they protect. The provisions are then sorted according to the two layers of measures of the theory of maqāṣid: the level of need, namely ḍarūriyyāt, ḥājiyyāt, and taḥsīniyyāt, and the order of the five main interests that begin with the protection of religion and the soul.

The third step is the selection of instruments. For each group of prioritized provisions, the most appropriate legal forum is sought by taking into account three things: the level and authority of regulatory makers according to Law No. 12 of 2011, the nature of the norms whether in the form of prohibitions, obligations, or technical standards, and the need for sanctions and supervision. The results of these three steps are presented in the form of a matrix and described in a descriptive-prescriptive manner. This article is part of

a broader study, which compares the halal regulations of the Indonesian tourism sector with those of Thailand and Vietnam, but only uses Indonesian legal materials. Because of its normative nature, this article assesses what should be regulated and how to regulate it, not to measure the effectiveness of the implementation of fatwas in the field.

2. RESULT AND ANALYSIS

1.Anatomy of Norms in DSN-MUI Fatwa No. 108/DSN-MUI/X/2016

Fatwa No. 108 was established on October 1, 2016 and is composed of eleven dictums. The first dictum contains fifteen definitions, ranging from sharia tourism, sharia tourist destinations, and sharia travel agencies (BPWS), to the three contracts used. The second dictum states that the implementation of tourism based on sharia principles can be carried out as long as it follows the provisions of the fatwa. The third dictum stipulates two general principles, namely avoiding polytheism, disobedience, kemafsadatan, tabdzīr/isrāf, and wickedness, as well as creating material and spiritual benefits. The fourth to tenth dictum contain operational provisions on contracts between parties, sharia hotels (seven items), tourists (four items), and tourist destinations (development directions, facilities that must be available, and things that must be avoided). These dictums also regulate spas, saunas, and massages (five items), BPWS (six items), and sharia tour guides (four items). The last dictum regulates dispute resolution through sharia-based institutions after deliberations fail, and submits implementation details to the implementation guidelines (National Sharia Council of Indonesian Ulema Council, 2016).

When read from the point of view of legislation, the operational provisions of this fatwa are not homogeneous. Some are business norms that are commonly found in tourism business standards, for example, the obligation of hotels to provide means of worship and purification or the obligation of BPWS to have a list of halal food providers. Others are contractual norms, namely the determination of ijārah, ju'ālah, and wakālah bi al-ujrah contracts for relations between parties. There are also norms of personal piety aimed at tourists, such as maintaining the obligation of worship and noble morals during tourism. This distinction is important because the three types of norms do not require the same legal treatment. Business norms are worthy of being used as binding standards, and contractual norms are enough to work within the freedom of contract of the parties. The norms of personal piety are in the area of religious awareness that is not appropriately imposed by the state. By sorting out the provisions according to their types, this fatwa is broken down into 32 operational provisions which are then mapped to positive law.

1. Mapping of Fatwa Provisions on Positive Law

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   The 32 provisions are mapped to the Halal Product Assurance Law along with Government Regulation No. 42 of 2024, the Tourism Law with the latest amendments through Law No. 18 of 2025, as well as several sectoral laws. The results are presented in Table 1.

Table 1. Accommodation Status of DSN-MUI Fatwa Provisions No. 108/2016 in Positive Law

Subject of the arrangement	Number of provisions	Accommodated	Partially accommodated	Not accommodated yet	The main equivalence in positive law
Sharia hotels	7	2	1	4	PP 42/2024 Article 2, 155, 159–160; Law 44/2008; Law 10/2009 Article 26 letter j
Tourists	4	0	2	2	Law 18/2025 Article 25 letters a and g
Tourist destinations	4	0	4	0	Law 18/2025 Article 5 letter a, 11I, 17H, 17W paragraph (3); GR 42/2024 Article 22
Spa, sauna, and massage	5	2	1	2	PP 42/2024 Article 161 paragraph (1) letter d; Law 44/2008
Sharia travel agency	6	0	1	5	Law 10/2009 Article 26 letter j
Sharia tour guide	4	1	1	2	Law 18/2025 Article 53; Law 10/2009 Article 26
Contracts and dispute resolution	2	1	0	1	Law 3/2006 Article 49
Quantity	32	6 (18,8%)	10 (31,3%)	16 (50,0%)	

Source: Analysis of primary legal materials, processed by the author (2026).

Table 1 shows that half of the fatwa provisions have no equivalent in positive law at all, while less than one-fifth are actually accommodated. The six accommodated provisions are generally not adopted because the rulemakers refer to fatwas. These provisions are accommodated because their substance happens to meet other, more general legal regimes:

a. Food and beverages in sharia hotels. The obligation to serve halal-certified food and beverages is now covered by the obligation to certify halal for products in circulation and trade (Government Regulation No. 42 of 2024, Article 2 paragraph 1). The first phase covers food and beverages, with a deadline of October 17, 2024 for medium and large businesses and October 17, 2026 for micro and small businesses (Article 160).
b. Spa materials. Spa materials that are guaranteed halal are affordable by the phasing of cosmetic certification which ends on October 17, 2026 (Article 161 paragraph 1 letter d).
c. Pornography and pornography. The prohibition of providing access to pornography in hotels and pornography in spa places is accommodated by the general prohibition in Law No. 44 of 2008 concerning Pornography.
d. Guide competence. The obligation of guides to have a competency certificate is now regulated by Article 53 of the 2025 amended Tourism Law, which requires a work competency certificate from a licensed professional certification body.
e. Dispute resolution. Sharia-based disputes have a channel through the authority of religious courts in the field of sharia economics (Law No. 3 of 2006, Article 49).

It should be noted that accommodation in the field of halal products is accompanied by institutional shifts. Fatwa requires a halal certificate "from the MUI", while according to Government Regulation No. 42 of 2024 the certificate is issued by BPJPH based on a fatwa or halal determination by the MUI or the Halal Product Fatwa Committee (Article 1 number 8). The substance of the fatwa has thus been absorbed, but its technical formulation needs to be read according to the new institutional design. This pattern is in line with the findings of Mustafid et al. (2024) that the MUI's halal fatwa succeeded in entering the legislation precisely through the halal product guarantee regime.

The ten provisions that are partially accommodated show a different pattern. Positive law regulates similar things, but with a more general formulation, it is not specifically aimed at sharia tourism businesses, nor is it accompanied by technical standards. For example, every tourism entrepreneur is obliged to "participate in preventing all forms of acts that violate morality" in his business environment (Law No. 10 of 2009, Article 26 letter j). This obligation touches on the prohibition of immoral entertainment in hotels, the honor of tourists in spas, and the obligation of BPWS to have prevention guidelines, but does not explain the form of prevention required. The 2025 amendment adds several provisions that are in the same direction:

a. the principle of "upholding religious norms and cultural values" (Article 5 letter a);
b. the obligation of destination managers to provide public facilities (Article 17H);

c. the obligation to create activities that respect religious norms (Article 17W paragraph 3);

d. the obligation of tourists to respect religious norms and prevent acts that violate morality (Article 25 letters a and g).

These formulations are in line with the spirit of the fatwa, but none explicitly mention worship facilities, halal food, or liquor control. At the destination level, the provision on the separation of sales and presentation of halal and non-halal products (Government Regulation No. 42 of 2024, Article 22) protects Muslim consumers in every outlet. However, this provision does not require a destination to have a halal food provider as required by the fatwa.

The most prominent finding comes from Law No. 18 of 2025 itself. This law is the third amendment to the Tourism Law and was passed on October 29, 2025. It overhauled quite a few parts of its parent law, including adding provisions on facilities and infrastructure, tourist villages, and activity creation, as well as reregulating the rights and obligations of the parties. However, a search of its entire torso did not find a single term "halal", "sharia", or "Muslim-friendly". In fact, the lawmakers have actually accepted the logic of services based on the needs of tourist groups. This can be seen from Article 17G, which requires the development of destination facilities to prioritize the principle of being friendly to people with disabilities, gender, pregnant women, the elderly, and children, and Article 20 letter e, which guarantees the right of tourists to services for the same group. The needs of Muslim tourists have not been included in this logic, even though according to Susilawati (2023) they are still constrained by the availability of worship facilities and holy places. Thus, the void noted by studies before 2025 (Shulthoni & Masyhadi, 2023; Wiryanto et al., 2024) is not answered by the latest law changes.

The sixteen provisions that have not been accommodated are concentrated on two subjects, namely sharia hotels and BPWS. Provisions that do not have any equivalent include worship and purification facilities in hotels, employee clothing, guidelines for sharia service procedures, and the use of sharia financial institutions. The same applies to the provision of sharia tour packages, a list of accommodation and halal food providers, and sharia fund management. The vacancy in sharia hotels is a direct result of the revocation of Permenparekraf No. 2 of 2014 which was not followed by a replacement (Usanti, 2021). Meanwhile, the vacancy in BPWS shows that the sharia tourism business has never been recognized by the state as a separate category. In spas, the provision that therapists only serve same-sex tourists also has no positive legal basis. This condition confirms the observation of Rahmawati et al. (2025) that the fatwa contains norms that are not recognized by the Tourism Law, as well as showing measurably which part is meant.

2. The Priority of Positivization in the Perspective of Maqāṣid al-Sharī'ah

The results of the mapping do not mean that all 26 provisions that have not been or have only partially been accommodated must be immediately made into binding norms. The theory of maqāṣid actually provides a tool to sort them out. Al-Syāṭibī (1997) distinguishes the benefits according to the level of their need into three. *Ḍ*arū*r*iyyā*t* is a benefit whose absence damages the uphold of religion and life. *Ḥ*ājiyyā*t* is a benefit whose absence causes narrowness and difficulty. Ta*ḥ*sīniyyā*t* is a benefit related to the propriety and beauty of morality. In the context of the formation of regulations, this sequence can be read as a sequence of the intensity of state intervention: the more basic the benefit protected, the stronger the reason to give it binding and sanctioning power. The rule of ta*ṣ*arruf al-imām 'alā al-ra'iyyah man*ū*ṭun bi al-ma*ṣ*la*ḥ*ah affirms that the policy of the ruler is bound by the benefit of the people. Therefore, the choice to regulate or not to regulate must be accounted for from the point of view of benefit. The results of the sorting are presented in Table 2.

Table 2. Priority of Positivization of Fatwa Provisions Based on the Level of Benefit

Level	Fatwa provisions	Benefits of protected trees	Setting direction
*Ḍ*arū*r*iyyā*t* (first priority)	Worship and purification facilities at hotels, destinations, and spas; all halal-certified food and beverages at sharia-labeled businesses; same-sex therapists; sharia-labeled destinations free of liquor and gambling	*Ḥ*if*ẓ* al-dīn, *ḥ*if*ẓ* al-nafs, *ḥ*if*ẓ* al-'aql, *ḥ*if*ẓ* al-nasl	Binding norms for businesses and destinations that use sharia or halal designations, accompanied by supervision and administrative sanctions
*Ḥ*ājiyyā*t* (second priority)	List of accommodations, destinations, and halal food providers at BPWS; hotel service procedure guidelines; tourism fiqh competence for guides; use of Islamic	*Ḥ*if*ẓ* al-dīn and *ḥ*if*ẓ* al-mā*l* through the certainty of information and transactions	Verifiable business standards and competency schemes

	financial institutions and sharia fund management		
Taḥsīniyyāt (remain as a guide)	The employee's clothing and the appearance of the guide; the personal obligations of the traveler; the determination of the type of contract between the parties	Propriety and perfection of morality	Remain as a guideline for fatwas and good practices that are voluntary

Source: The author's analysis is based on the level of benefit according to al-Syāṭibī (1997).

The ḍarūriyyāt group occupies the first priority because it concerns the ability of Muslim tourists to carry out religious obligations and avoid those that are forbidden while in a place that openly promises sharia services. The absence of facilities for worship and purification in hotels that claim to be sharia, or the serving of food that is not guaranteed halalness there, is not simply a lack of comfort. It is a failure to fulfill the promise that is the reason why tourists choose the service. The provision of same-sex therapists is included in this group because it relates to the protection of honor, which in the framework of maqāṣid is part of ḥifẓ al-nasl. The prohibition of liquor and gambling in sharia-labeled destinations is directly related to ḥifẓ al-'aql.

The ḥājiyyāt group occupies the second priority because its absence does not negate the possibility of tourists practicing their religion, but makes it difficult. Without these provisions, tourists have to find information on their own about halal accommodation and food, and there is no guarantee that guides or travel fund managers understand the provisions of sharia. The taḥsīniyyāt group is deliberately allowed to remain in the realm of fatwa. Requiring the way employees dress through state regulations risks raising personal freedom issues. The duty of worship and morals of tourists is also an individual's religious responsibility that is more effectively maintained through da'wah than sanctions.

This separation has two consequences. First, the regulatory burden becomes lighter and more acceptable. Provisions that are taḥsīniyyāt, including all of the tourists' personal obligations, are not proposed to be binding norms, whereas the provisions of ḥājiyyāt are directed to be verifiable standards, not prohibitions accompanied by heavy sanctions. This is relevant because the experience of the repeal of the Islamic hotel guidelines in 2016 shows that regulations that are considered excessive easily lose support. Second, fatwas do not lose their function after some of their content has been positified. Fatwas remain a source of reference for substance for standards compiled

by the state, and remain a moral guideline for provisions that are deliberately not regulated. This kind of relationship reflects the view of Shulthoni and Masyhadi (2023) that state law and religious law in halal tourism support each other. The difference is that now the division of labor between the two can be determined more clearly.

3. Instrument Selection and Direction of Strengthening Settings

The next step is to determine the legal framework for each group of provisions. Although it does not mention halal tourism, the amendment to the Tourism Law in 2025 actually provides a clearer entrance than before. Article 28 letter i gives the Government the authority to "establish norms, standards, guidelines, procedures, criteria, and supervision systems". On the other hand, Article 26 letter n of Law No. 10 of 2009 requires tourism entrepreneurs to implement business standards in accordance with laws and regulations. These two provisions are enough to be the basis for a ministerial regulation that sets sharia tourism business standards for hotels, spas, and travel agencies. In order not to repeat the failure of 2016, the standard should only bind businesses that voluntarily use the designation sharia or halal, as the idea of claims-based regulation has been submitted in the author's comparative study ([Author's Name], in the process of publication). In this way, the state does not require all hotels to be sharia hotels, but guarantees that hotels that claim to be sharia actually meet the provisions of *ḍarūriyyāt* and *ḥājiyyāt* listed in Table 2.

For destinations, the most appropriate forum is a government regulation on facilities and infrastructure mandated by Article 17J of Law No. 18 of 2025. This government regulation can detail the public facilities that must be provided by destination managers according to Article 17H, by including prayer rooms and holy places as part of public facilities. Such a formulation is not exclusive to Muslims and can be designed to serve followers of other religions, so that it is in line with the principle of friendliness for various groups of tourists that have been embraced by Article 17G and Article 20 letter e. The restriction of alcoholic beverages and gambling in destinations that are officially labeled sharia is more appropriately regulated through local regulations, as they are related to the local social and cultural character. The diversity of regional approaches noted by Wajdi et al. (2026) and the limited regional regulations found by Wiryanto et al. (2024) show the need for national standards as a reference. Meanwhile, the decision to designate sharia-labeled destinations remains in the hands of the regions.

For tour guides, the instruments are already available. Article 53 of the 2025 amended Tourism Law requires tourism human resources to work according to competency standards, as evidenced by a certificate from a professional certification body. Tourism fiqh competencies and Muslim-friendly services are simply added as optional competency units in the tour guide certification scheme, without the need for new regulations at the legal level. For information on accommodation and halal food providers, BPWS's

obligations can be linked to halal certification data managed by BPJPH. That way, the list required by fatwa can be publicly verified by tourists.

All of these strengthening directions show that the problem of halal tourism in Indonesia does not require new laws, as some previous studies have proposed (Susilawati, 2023). The authority and regulatory entry points are already available in the 2025 amended Tourism Law and the halal product assurance regime. What has not yet been done is the decision to fill that authority with the substance that has long been formulated in fatwas. The positivization of Islamic law has been successful in the field of sharia economics and halal products (Shinta & Mutian, 2022; Mustafid et al., 2024). Within that framework, halal tourism does not require a huge leap, but rather a series of gradual steps guided by the level of benefit.

CONCLUSION

This study shows that DSN-MUI Fatwa No. 108/DSN-MUI/X/2016 is still the main forum for halal tourism norms in Indonesia, while positive law has only absorbed a small part of its contents. Of the 32 operational provisions of the fatwa, only six have binding equivalents, ten are generally accommodated, and sixteen have not been regulated at all. The absorbed provisions are not included because of direct reference to the fatwa, but because they meet with other legal regimes, especially halal product guarantees, pornography bans, work competence, and religious court authority. The largest vacancies are in sharia hotels and sharia travel agencies. The latest amendment to the Tourism Law through Law No. 18 of 2025 does not fill the gap because it does not mention halal services at all, although it has recognized the special needs of other tourist groups. Through sorting based on the level of benefit, this study shows that not all fatwas content needs to be made into state law. The provisions of *ḍarūriyyāt* deserve to take precedence as binding norms, namely the means of worship and purification, the halalness of all dishes in sharia-labeled businesses, same-sex therapists, and restrictions on alcoholic beverages and gambling in sharia-labeled destinations. The provisions of *ḥājiyyāt* are simply formulated as business standards and competencies, while the provisions of *taḥsīniyyāt* and the personal obligations of tourists remain in the realm of fatwa. The legal forum is also available. First, the ministerial regulation on business standards based on Article 28 letter i of Law No. 18 of 2025, which only binds businesses that use the designation sharia or halal. Second, government regulations on destination facilities and infrastructure mandated by Article 17J. Third, the guide competency certification scheme based on Article 53. Fourth, regional regulations for destinations that are determined to be labeled sharia. Thus, the strengthening of halal tourism does not depend on the formation of new laws, but on the willingness to fill existing authority with the substance that has been formulated in the fatwa.

This finding has two limitations. First, because it is normative, this study has not measured the readiness of business actors and local government acceptance of the proposed regulation. Second, the number of fatwa provisions calculated depends on the method of sorting determined by the author. The ministry in charge of tourism is advised to make Table 2 the starting point for the preparation of claims-based sharia tourism business standards. The preparation needs to be carried out together with BPJPH and DSN-MUI so that the substance of the fatwa and the halal product assurance framework are in harmony. DSN-MUI itself can issue implementation guidelines mandated by the eleventh dictum of the fatwa as a bridge to state standards. The next research needs to test this proposal empirically through interviews with sharia hotel managers, travel agencies, and local governments. Further research also needs to examine local regulations on halal tourism in detail, to see the extent to which the fatwa provisions have been translated at the local level.

References

Achmad, D., & Thamrin, A. (2024). Anomali fatwa Majelis Ulama Indonesia dalam sistem hukum Indonesia: Telaah hukum responsif. *Al-Qisthu: Jurnal Kajian Ilmu-Ilmu Hukum, 22*(1), 23–42. https://doi.org/10.32694/qst.v22i1.3011

Dewan Syariah Nasional Majelis Ulama Indonesia. (2016). *Fatwa DSN-MUI Nomor 108/DSN-MUI/X/2016 tentang Pedoman Penyelenggaraan Pariwisata Berdasarkan Prinsip Syariah*. https://drive.google.com/file/d/0BxTl-lNihFyzV0dPcEdtd0kwN2M/view?resourcekey=0-ZW0VKJGV2YqoVoRC4kuszg

Haerisma, A. S., Anwar, S., & Muslim, A. (2023). Development of halal tourism destinations on Lombok Island in six features perspective of Jasser Auda's maqasid syari'ah. *Afkaruna: Indonesian Interdisciplinary Journal of Islamic Studies, 19*(2), 298–316. https://doi.org/10.18196/afkaruna.v19i2.19437

Mustafid, F., Nasution, K., & Sodiqin, A. (2024). Positivization of the Council of Indonesian Ulema's halal fatwa: Policy and position in Indonesian legislation. *JURIS (Jurnal Ilmiah Syariah), 23*(1), 155–166. https://doi.org/10.31958/juris.v23i1.10859

Peraturan Menteri Pariwisata dan Ekonomi Kreatif Republik Indonesia Nomor 2 Tahun 2014 tentang Pedoman Penyelenggaraan Usaha Hotel Syariah. (2014). https://pasal.id/peraturan/permen/permenparekraf-no-2-tahun-2014

Peraturan Menteri Pariwisata Republik Indonesia Nomor 11 Tahun 2016 tentang Pencabutan atas Peraturan Menteri Pariwisata dan Ekonomi Kreatif Nomor 2 Tahun 2014 tentang Pedoman Penyelenggaraan Usaha Hotel Syariah. (2016). Berita Negara Republik Indonesia Tahun 2016 Nomor 1174. https://peraturan.go.id/files/bn1174-2016.pdf

Peraturan Pemerintah Republik Indonesia Nomor 42 Tahun 2024 tentang Penyelenggaraan Bidang Jaminan Produk Halal. (2024). Lembaran Negara Republik Indonesia Tahun 2024 Nomor 229. https://peraturan.bpk.go.id/Details/304896/pp-no-42-tahun-2024

Rahmawati, S. P., Isman, I., & Hakim, L. (2025). Halal tourism fatwa and the development of halal tourism regulations in Indonesia. *Proceeding of Islamic International Conference on Education, Communication, and Economics, 1*, 696–710. https://journal.ummat.ac.id/index.php/iicece/article/view/31128

Ruhaeni, N., Yusdiansyah, E., & Aqimuddin, E. A. (2024). Revisiting Indonesia halal tourism policy in light of GATS. *Journal of International Trade Law and Policy, 23*(2/3), 154–167. https://doi.org/10.1108/JITLP-12-2023-0064

Santoso, L., Triyanta, A., & Thontowi, J. (2022). Halal tourism regulations in Indonesia: Trends and dynamics in the digital era. *Ijtihad: Jurnal Wacana Hukum Islam dan Kemanusiaan, 22*(1), 73–94. https://doi.org/10.18326/ijtihad.v22i1.73-94

Shinta, M., & Mutian, N. R. (2022). Actualization of MUI fatwa on positive law as Islamic legal opinion in Indonesia. *Indonesian Journal of Law and Islamic Law, 4*(2), 186–209. https://doi.org/10.35719/ijlil.v4i2.233

Shulthoni, M., & Masyhadi, A. R. (2023). Interrelating state and religious laws on halal tourism in Indonesia. *Revista Jurídica, 4*(76), 533–559. https://doi.org/10.26668/revistajur.2316-753X.v4i76.6497

Susilawati, C. (2023). Identification and efectiveness of halal tourism laws in Indonesia. *Journal of Islamic Economic Laws, 6*(2), 110–132. https://journals.ums.ac.id/jisel/article/view/22597

al-Syāṭibī, I. (1997). *Al-Muwāfaqāt* (Vol. 2; M. H. Āl Salmān, Ed.). Dār Ibn ʻAffān. https://shamela.ws/book/11435 (Karya asli ditulis abad ke-14)

Undang-Undang Republik Indonesia Nomor 3 Tahun 2006 tentang Perubahan atas Undang-Undang Nomor 7 Tahun 1989 tentang Peradilan Agama. (2006). https://peraturan.bpk.go.id/Details/40154/uu-no-3-tahun-2006

Undang-Undang Republik Indonesia Nomor 6 Tahun 2023 tentang Penetapan Peraturan Pemerintah Pengganti Undang-Undang Nomor 2 Tahun 2022 tentang Cipta Kerja menjadi Undang-Undang. (2023). Lembaran Negara Republik Indonesia Tahun 2023 Nomor 41. https://peraturan.bpk.go.id/Details/246523

Undang-Undang Republik Indonesia Nomor 10 Tahun 2009 tentang Kepariwisataan. (2009). Lembaran Negara Republik Indonesia Tahun 2009 Nomor 11. https://peraturan.bpk.go.id/Details/38598/uu-no-10-tahun-2009

Undang-Undang Republik Indonesia Nomor 12 Tahun 2011 tentang Pembentukan Peraturan Perundang-undangan. (2011). https://peraturan.bpk.go.id/Details/39188/uu-no-12-tahun-2011

Undang-Undang Republik Indonesia Nomor 18 Tahun 2025 tentang Perubahan Ketiga atas Undang-Undang Nomor 10 Tahun 2009 tentang Kepariwisataan. (2025). https://peraturan.bpk.go.id/Details/334481

Undang-Undang Republik Indonesia Nomor 33 Tahun 2014 tentang Jaminan Produk Halal. (2014). https://peraturan.bpk.go.id/Details/38709/uu-no-33-tahun-2014

Undang-Undang Republik Indonesia Nomor 44 Tahun 2008 tentang Pornografi. (2008). https://peraturan.bpk.go.id/Details/39740/uu-no-44-tahun-2008

Unsiyah, N., Nasik, K., Musadad, A., & Nahidloh, S. (2026). Model pengembangan pariwisata halal berbasis maqashid syariah: Perspektif hukum Islam dan regulasi kebijakan pariwisata Indonesia. *Jurnal USM Law Review, 9*(2), 1087–1106. https://doi.org/10.26623/julr.v9i2.13635

Usanti, T. P. (2021, Agustus 26). *Aturan tentang hotel syariah di Indonesia*. Hukumonline. https://www.hukumonline.com/klinik/a/aturan-tentang-hotel-syariah-di-indonesia-lt61274e9fe164a/

Wajdi, F., Dardin, R. F., Salamah, U., Daulay, M. N., & Kholidah. (2026). Halal tourism policy in the contemporary era: A maqāṣid al-sharī'ah perspective on regulatory gaps. *MILRev: Metro Islamic Law Review, 5*(1). https://doi.org/10.32332/milrev.v5i1.12529

Wiryanto, W., Walujo, D., Nuryana, M., Adnan, A., & Hutapea, G. (2024). Development of halal tourism policies in Indonesia after DSN-MUI Fatwa Number 108/DSN-MUI/X/2016: Preliminary insights. *BIO Web of Conferences, 146*, 01097. https://doi.org/10.1051/bioconf/202414601097