

## RELIGIOUS AUTHORITY AND CULTURAL GOVERNANCE IN ISLAMIC PUBLIC LAW: A FIQH SIYASAH STUDY OF MUSIC CONCERT REGULATION IN ACEH

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**Abstrak:** Pelarangan konser musik di Aceh selama dua dekade pascakonflik menunjukkan kecenderungan yang semakin menguat seiring dengan menguatnya institusionalisasi syariat Islam dalam ruang publik. Fenomena ini merefleksikan proses negosiasi yang tidak selalu harmonis antara otoritas keagamaan dan ekspresi budaya kontemporer yang berakhir pembatalan dan pelarangan konser musik melalui mekanisme administratif. Penelitian ini menganalisis landasan fiqh siyasah dalam konstruksi Fatwa MPU Aceh No. 12/2013 serta mengevaluasi implikasi penerapan pelarangan konser musik terhadap tata kelola Pemerintahan di Aceh. Dengan menggunakan metode yuridis-normatif dengan pendekatan deskriptif-analitis, penelitian ini mengkaji sumber hukum utama yang melandasi pelarangan konser musik meliputi fatwa MPU, surat edaran pemerintah daerah serta literatur fiqh siyasah klasik dan kontemporer. Hasil penelitian menunjukkan bahwa Fatwa MPU Aceh Nomor 12 Tahun 2013 disusun dalam kerangka fiqh siyasah melalui pendekatan *siyāsah shar‘iyyah* dan *maṣlaḥah mursalah* sebagai pedoman moral-keagamaan dalam pengaturan seni dan hiburan di Aceh. Namun, ketika fatwa ditransformasikan menjadi kebijakan daerah tanpa dasar qanun dan mekanisme deliberasi publik yang berimbang terjadi pergeseran fungsi dari norma etis menjadi perangkat kontrol simbolik atas ruang budaya sekaligus membatasi pluralitas ekspresi budaya kontemporer. Penelitian ini merekomendasikan penyusunan qanun khusus yang mengatur kriteria seni dan budaya Islami secara kontekstual melalui proses legislasi yang partisipatif, inklusif dan transparan agar kebijakan berbasis syariat tetap responsif terhadap perubahan ekspresi budaya masyarakat.

**Kata kunci:** Otoritas Agama, Kebijakan Publik, Fiqh Siyasah, Larangan Konser Musik, Aceh

**Abstract:** The prohibition of music concerts in Aceh over the past two decades of the post-conflict period has shown an increasingly consolidated trend alongside the deepening institutionalization of Islamic law in the public sphere. This phenomenon reflects a process of negotiation that is not always harmonious between religious authority and contemporary cultural expression often culminating in the cancellation and prohibition of music concerts through administrative mechanisms. This study examines the fiqh siyasah foundations underlying the construction of the Aceh Ulama Consultative Council (MPU) Fatwa No. 12 of 2013 and evaluates the implications of its implementation for governance practices in Aceh. Employing a juridical-normative method with a descriptive-analytical approach, the study analyzes key legal sources underpinning the prohibition of music concerts, including MPU fatwas, regional government circular letters, and classical as well as contemporary fiqh siyasah literature. The findings indicate that MPU Fatwa No. 12/2013 is formulated within the framework of fiqh siyasah through the approaches of *siyāsah shar‘iyyah* and *maṣlaḥah mursalah*, functioning primarily as a moral-religious guideline for regulating arts and entertainment in Aceh.



However, when such a fatwa is translated into regional policy in the absence of a formal qanun and balanced public deliberation mechanisms, its function shifts from an ethical norm to an instrument of symbolic control over cultural space, thereby constraining the plurality of contemporary cultural expressions. This study recommends the formulation of a specific qanun regulating Islamic arts and culture through a participatory, inclusive, and transparent legislative process, ensuring that sharia-based policies remain responsive to the evolving cultural expressions of society.

**Keyword:** Religious Authority, Public Policy, Fiqh Siyasah, Music Concert Prohibition, Aceh

## INTRODUCTION

Music constitutes a form of cultural expression that functions as a medium for the production of social meaning, the construction of identity, and collective interaction within the public sphere. Music is not merely a form of entertainment; rather, it has evolved into an arena of cultural exchange and social identity formation amid the processes of globalization and media transformation.<sup>1</sup> The development of music particularly what is now widely recognized as popular music plays a significant role in facilitating cross-cultural integration and strengthening intergroup awareness and tolerance through the social interactions that occur within musical spaces, including music concerts that serve as arenas of collective experience and cultural expression.<sup>2</sup>

In the global context, the issue of music and entertainment in Islamic law has long been the subject of debate among scholars, with opinions ranging across a broad spectrum from total prohibition to conditional permissibility. Classical and contemporary jurists have developed various evaluative methodologies that do not focus solely on musical instruments themselves, but also take into account context, content, and the socio-moral impact of musical activities.<sup>3</sup> Ibn Ḥazm regarded music as morally neutral and evaluated it primarily on the basis of the actor's intention, whereas al-Ghazālī developed a more substantive approach by considering the spiritual condition of the listener as well as the broader socio-cultural context in which the music is performed and received.<sup>4</sup> On the other hand, scholars such as Ibn Taymiyyah adopted a stricter position by categorizing most forms of music as *haram*, based on their interpretation of certain prophetic hadiths,<sup>5</sup> while still acknowledging the existence of divergent opinions among the various schools (*madhāhib*) of Islamic jurisprudence.<sup>6</sup>

In the context of Aceh, musical practice is not fundamentally positioned as an absolutely prohibited activity; rather, it is regulated within the normative framework of Islamic law as institutionalized in Aceh MPU Fatwa Number 12 of 2013 concerning Arts, Culture, and Entertainment from the Perspective of Islamic Sharia.<sup>7</sup> Over the two decades following the Aceh conflict (2005-2025), prohibitions and restrictions on music concerts have repeatedly

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<sup>1</sup> Pan Li, "Popular Music in an Age of Globalization: Cultural Exchange through Media Platforms," *Humanities and Social Sciences Communications* 12, no. 1 (13 Agustus 2025): 1306, doi:10.1057/s41599-025-05602-4.

<sup>2</sup> John Blacking, "Making Artistic Popular Music: The Goal of True Folk," *Popular Music* 1 (Januari 1981): 9–14, doi:10.1017/S026114300000088X.

<sup>3</sup> Omar Farahat, "Norms and Values in Islamic Legal Reasoning: The Case of Listening to Music (Samā')," *Religions* 14, no. 6 (13 Juni 2023): 780, doi:10.3390/rel14060780.

<sup>4</sup> Jonathan H. Shannon, "Emotion, Performance, and Temporality in Arab Music: Reflections on Tarab," *Cultural Anthropology* 18, no. 1 (2003): 72–98.

<sup>5</sup> L.I Faruqi, "Music, Musicians and Muslim Law," *Asian Music* Vol. 17, No. 1 (1985): 3–36.

<sup>6</sup> Amnon Shiloah, "Music and Religion in Islam," *Acta Musicologica* 69, no. 2 (1997): 143–55, doi:10.2307/932653.

<sup>7</sup> Syah Iskandar dan Edi Saputra, "Live Musik, Syariat Islam dan Asas Freies Ermessen: Menyikapi Surat Edaran Bupati Bireuen," *Legitimasi: Jurnal Hukum Pidana dan Politik Hukum* 12, no. 2 (31 Desember 2023): 155–72, doi:10.22373/legitimasi.v12i2.20188.

occurred as part of the broader dynamics of Sharia enforcement and the moral regulation of public space. A number of popular music concerts both involving national artists and local performers have been cancelled or denied permits by regional governments and security authorities following recommendations or normative positions issued by the Majelis Permusyawaratan Ulama Aceh (MPU Aceh).<sup>8</sup>

The MPU fatwa indicates that the object of restriction is not music as an artistic expression per se, but rather music concerts or live performances that are subject to prohibition. The pattern of prohibition is generally not grounded in a rejection of music as an art form; instead, it is based on concerns that music concerts may generate practices considered contrary to Islamic law, such as *ikhtilāf* (free mixing between men and women), bodily expressions deemed to violate Islamic decorum (*adab*), the consumption of alcoholic beverages, as well as lyrics and performers perceived to deviate from prescribed moral or gender norms.<sup>9</sup> The strong pressure exerted by religion-based civil society groups has also accelerated the cancellation of concerts, positioning the government in regulating public space as both mediator and executor of religious moral norms endowed with binding legal force.<sup>10</sup>

The fundamental legal questions of this study are as follows. First, what is the status and legitimacy of Aceh MPU Fatwa Number 12 of 2013, from the perspective of *fiqh siyasah*, when it is transformed into public policy that restricts contemporary cultural expression without a formal *qanun* basis and without adequate mechanisms of public deliberation? Second, to what extent is such a practice consistent with the principles of *siyāsah shar‘iyyah*, *maṣlaḥah mursalah*, and democratic governance within the post-conflict context of Aceh?. This study employs the framework of *fiqh siyasah* (*siyāsah shar‘iyyah*), integrated with theories of the transformation of religious norms into positive law, as well as the framework of deliberative democracy.<sup>11</sup> This approach enables a comprehensive analysis of the legitimacy of the fatwa as a form of religious authority, the institutional mechanisms through which it is transformed into binding public policy, and its implications for the principles of participation, accountability, and cultural rights within the context of Aceh’s special autonomy.

The contribution of this study lies in strengthening the analytical framework of *fiqh siyasah* by moving beyond a mere analysis of the transformation of religious authority fatwas into legally binding public policies, particularly in the regulation of cultural space and artistic expression in Aceh.<sup>12</sup> As well as formulating policy implications for the harmonization of the implementation of Islamic Sharia, the principles of deliberative democracy, and the protection of contemporary cultural expression within the context of a post-conflict society.

<sup>8</sup> Auliana Rizki, “Ketua MPU: Konser di Aceh Tidak Perlu Diadakan Lagi,” *dialeksis.com*, 6 September 2022, <https://dialeksis.com/aceh/ketua-mpu-konser-di-aceh-tidak-perlu-diadakan-lagi/>.

<sup>9</sup> Fatwa Majelis Permusyawaratan Ulama (MPU) Aceh, Nomor 12 Tahun 2013 “Tentang Seni Budaya dan Hiburan Lainnya Dalam Pandangan Syariat Islam.”

<sup>10</sup> Abdul Halim, “Non-Muslims in the Qanun Jinayat and the Choice of Law in Sharia Courts in Aceh,” *Human Rights Review* 23, no. 2 (Juni 2022): 265–88, doi:10.1007/s12142-021-00645-x.

<sup>11</sup> Mukhsin Aseri dkk., “Negotiating Authority and Knowledge: Religion, Science, and Politics in the Fatwa Transformations of the Indonesian Ulama Council,” *Journal of Islamic Law* 6, no. 2 (23 Agustus 2025): 286–316, doi:10.24260/jil.v6i2.4702; Apdiana Mone, “Demokrasi dan Sistem Pemerintahan” (Open Science Framework, 13 November 2021), doi:10.31219/osf.io/fg9vw.

<sup>12</sup> Kamaruzzaman Bustamam-Ahmad, “The Application Of Islamic Law In Indonesia: The Case Study In Aceh,” *Journal Of Indonesian Islam* 1, no. 1 (1 Juni 2007): 135, doi:10.15642/JIIS.2007.1.1.135-180.

## LITERATUR REVIEW

### Music Law in Islamic Tradition

According to Nasr, music is a fundamental aspect of Islamic history and civilisation. Sufi figures such as Jalaluddin Rumi and Ruzbahan Baqli Shirazi have proven to this day that music does not conflict with, but rather is integrated into, Islamic tradition and law.<sup>13</sup> Muslim philosophers such as al-Kindi laid the foundations for music as a science, theorising about melody, modes, rhythm, composition and the relationship between lyrics and music. Al-Farabi made a major contribution to the development of musicology through his work, *Kitab al-Musiqi al-Kabir*.<sup>14</sup> Sufis and philosophers agree that music is *halal* under certain conditions: the right time, place, spiritual audience (*sama'*), and lyrics that lead to spiritual improvement.<sup>15</sup>

Studies on music from an Islamic legal perspective reveal a dynamic and diverse landscape of debate, both normatively and historical, as well as contextual.<sup>16</sup> A number of contemporary studies confirm that Muslim countries' attitudes towards music are not monolithic, but are influenced by their respective ideological, political and cultural frameworks.<sup>17</sup> In this regard, Iran is often cited as an interesting example because it demonstrates a relatively inclusive approach to regulating music. Although generally based on Islamic law, the country does not restrict musical expression, and even legalises special music festivals for women in controlled spaces.<sup>18</sup> This indicates that the application of music laws in Muslim countries can be flexible and adaptable to socio-cultural needs without completely abandoning the principles of Sharia law.

In his conceptual study, Rana argues that the term "music" itself does not have a fixed and singular definition in classical Islamic legal tradition. The ambiguity of this concept contributes to epistemic deadlock in the legal debate on music, as scholars often start from different assumptions about what music means. To overcome this problem, Rana proposes a typological classification of music for example, based on function (entertainment, ritual, education), context (public-private), instrument, and moral impact so that each type of music can be assessed more specifically from a *fiqh* perspective. This approach marks a shift from categorical judgements towards contextual and purpose-based judgements (*maqāṣid*-oriented).<sup>19</sup>

In line with this, several scholars have reinterpreted music law through a historical approach, tracing how music was practised in early Muslim societies, Sufi orders, and psychology,<sup>20</sup> to folk traditions.<sup>21</sup> These studies indicate that musical practices have a more

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<sup>13</sup> Seyyed Hossein Nasr, "The Views of Rûzbahân Baqlî, the Patron Saint of Shiraz, the Patron Saint of Shiraz," *Studies in Comparative Religion* 10, no. 1 (1976).

<sup>14</sup> Fadlou Shehadi, *Philosophies of Music in Medieval Islam*, vol. 67, Brill's Studies in Intellectual History (Leiden, The Netherlands: BRILL, 1995), 16.

<sup>15</sup> Leonard Lewisohn, "The sacred music of Islam: Samā' in the Persian Sufi tradition," *British Journal of Ethnomusicology* 6, no. 1 (1 Januari 1997): 1–33, doi:10.1080/09681229708567259.

<sup>16</sup> Joenathan Pislak, *Radicalism and Music* (Amerika: Wesleyan University Press, 2015).

<sup>17</sup> Subhi Ibrahim Sharqawi, "Importance and Ways to Employ Music and Singing from the Islamic Law Standpoint." 22, no. 2 (2024).

<sup>18</sup> Helen Kopnina, "Education for the future? Critical evaluation of education for sustainable development goals," *The Journal of Environmental Education*, t.t., doi:https://www.tandfonline.com/action/showCitFormats?doi=10.1080/00958964.2019.1710444.

<sup>19</sup> Rana Shieh, "Music and Islamic Law," *Transcendent Philosophy: An International Journal for Comparative Philosophy and Mysticism* 17 (December 2016): 47-72.

<sup>20</sup> Charless Burnett, *"Spiritual medicine": music and healing in Islam and its influence in Western medicine* (New York: Routledge, 2000).

diverse historical precedent than is often assumed in classical normative discourse. However, most of the literature tends to be descriptive-normative without elaborating on how these reinterpretations are translated into the framework of Islamic law at the local level.<sup>22</sup>

### The Scriptural Foundations of the Qur'an and Hadith Regarding Music

The debate over whether music is permissible in Islam has no explicit reference that is *qat'i* in the Qur'an, thus opening up a wide range of interpretations in Islamic legal tradition.<sup>23</sup> The Qur'an does not directly mention music as an object of prohibited law, but rather contains normative-ethical verses that require contextual interpretation in assessing entertainment practices and artistic expression.<sup>24</sup> The absence of explicit prohibitions confirms that legal assessments of music are a matter of *ijtihādī*, not *ta'abbudī*, and are therefore open to differing opinions.<sup>25</sup>

The most frequently referenced verse in this discourse in the Qur'an is Surah Luqmān [31]: verse 6, which reads:

وَمَنْ النَّاسِ مَنْ يَشْتَرِي لَهْوَ الْحَدِيثِ لِيُضِلَّ عَنْ سَبِيلِ اللَّهِ بِغَيْرِ عِلْمٍ وَيَتَّخِذَهَا هُزُوًا أُولَٰئِكَ لَهُمْ عَذَابٌ مُهِينٌ

Meaning: *And of the people is he who buys the amusement of speech to mislead (others) from the way of Allah without knowledge and who takes it in ridicule. Those will have a humiliating punishment.* (Q.S. Luqman[31]: 6)

This verse refers to *lahw al-hadith*,<sup>26</sup> which some classical exegetes interpret as entertainment that distracts people from the path of Allah.<sup>27</sup> However, this interpretation did not result in consensus (*ijmā'*), as a number of other exegetes understood *lahw al-hadith* to mean all forms of discourse or activities that are misleading, not music per se.<sup>28</sup> Thus, the direct link between this verse and the prohibition of music is interpretative and depends on a specific moral and social context.<sup>29</sup> Ibn Kathir explicitly interprets *lahw al-hadith* as singing (*al-ghinā'*). This interpretation is not intended as an absolute prohibition of all forms of entertainment, but rather as a condemnation of entertainment practices that are used as a means to rival revelation, divert attention from the Qur'an, and mislead people from the path of Allah without any basis in knowledge.<sup>30</sup>

The basis for declaring music unlawful is the hadith of the Prophet narrated by Abu Malik Al-Ash'ari from the Prophet; "Indeed, there will be a group of people from my ummah who will drink khamar, calling it by another name, playing musical instruments (*ma'āzif*) and female singers on their heads, so Allah will sink them into the earth and turn some of them

<sup>21</sup> Philip V. Bohlman, "The European Discovery of Music in the Islamic World and the 'Non-Western' in 19th-Century Music History," *The Journal of Musicology* 5, no. 2 (1987): 147–63, doi:10.2307/763849.

<sup>22</sup> Zainal Muttaqin, "Formalization of Islamic Law in Indonesia in the Framework of Social Engineering Theory by Roscoe Pound," *El-Mashlahab* 11, no. 2 (23 Desember 2021): 97–115, doi:10.23971/elma.v11i2.2825.

<sup>23</sup> Mohammad Hashim Kamali, *Shari'ah Law: An Introduction* (Oxford: Oneworld Publications, 2008); Wael B Hallaq, *An Introduction to Islamic Law* (Cambridge: Cambridge University Press, 2009), 7–14.

<sup>24</sup> Farid Esack, *The Qur'an: A User's Guide* (Oxford: Oneworld, 2008), 128–45.

<sup>25</sup> Ridwan Ridwan, "Menggagas Fikih Tasamuh di Tengah Masyarakat Multikultural," *Al-Manahij: Jurnal Kajian Hukum Islam* 3, no. 2 (18 Desember 2009): 185–204, doi:10.24090/mnh.v3i2.3673.

<sup>26</sup> Departemen Agama RI, *Al-Qur'an dan Terjemahannya* (Jakarta: Syaamil, 2005), 411–13.

<sup>27</sup> 'Abdullah bin Muhammad, *Tafsir Ibn Katsir Terj. M. 'Abdul Ghojjar E.M.*, Cet.1 (Pustaka Imam Asy-Syafi'i, 2008), 412–18.

<sup>28</sup> Ath-Thabari Abu Ja'far Muhammad bin Jarir, *Tafsir Ath-Thabari, Terj. Ahsan* (Jakarta: Pustaka Azzam, 2007), 411.

<sup>29</sup> Zuhaili Wahbah, *Tafsir al-Munir, Penerjemah Abdul Hayyie al-Kattani* (Depok: Gema Insani, 2013), 210–20.

<sup>30</sup> Ibn Katsir, *Tafsir al-Qur'an al-'Azim, tafsir QS. Luqman [31]: 6*, 6 ed. (Beirut: Dār al-Fikr / Dār Ṭayyibah, 1342).

into apes and pigs.”<sup>31</sup> According to al-Qardhawi<sup>32</sup>, this hadith cannot be used as evidence for the partial prohibition of music, because the hadith refers to a pattern of collective social deviation that will occur at the end of time. The term ma‘āzif in the hadith is not understood absolutely as a prohibition against all forms of music, but rather refers primarily to the type of music that serves as a means of negligence (*malahī*) and a trigger for immoral behaviour.<sup>33</sup>

An alternative approach was also developed by al-Ghazālī, who rejected the absolute generalisation of the law on music and assessed the practice of samā‘ based on the spiritual condition of the listener, the content of the message, and the social context (al-Ghazālī, *Iḥyā’Ulūm al-Dīn*). Within this framework, music can serve as a medium that brings humans closer to God, but it can also become a means of distraction when associated with lust and immoral behaviour.<sup>34</sup> Al-Ghazālī’s approach shows that the law on music is relational and contextual, not ontological or essentialist.<sup>35</sup>

This contextual view is in line with the general principle of the Qur’an which recognises beauty (zīnah) and aesthetic expression as part of human nature.<sup>36</sup> QS. Al-A’rāf [7]: 32 which reads:

قُلْ مَنْ حَرَّمَ زِينَةَ اللَّهِ الَّتِي أَخْرَجَ لِعِبَادِهِ ۖ وَالطَّيِّبَاتِ مِنَ الرِّزْقِ قُلْ هِيَ لِلَّذِينَ ءَامَنُوا فِي الْحَيَاةِ الدُّنْيَا خَالِصَةً يَوْمَ الْقِيَامَةِ ۗ كَذَٰلِكَ نُفَصِّلُ الْآيَاتِ لِقَوْمٍ يَعْلَمُونَ

Meaning: Say, "Who has forbidden the adornment of Allah which He has produced for His servants and the good [lawful] things of provision?" Say, "They are for those who believe during the worldly life [but] exclusively for them on the Day of Resurrection." Thus do We detail the verses for a people who know. (Q.S. Al-A’rāf [7]: 32)

In *Tafsir al-Mishbah*, Quraish Shihab explains that the phrase *zīnatallāh allatī akhbraja li’ibādihī* encompasses all forms of beauty bestowed by Allah upon humankind, whether in the form of clothing, appearance, art, or cultural expressions that soothe the soul. According to him, this verse was revealed as a criticism of religious attitudes that tend to prohibit things without clear revelatory basis, both in the traditions of ignorance and in extreme religious tendencies.<sup>37</sup> Fazlur Rahman (1982) explicitly states that the adornments and pleasures of life created by Allah should not be prohibited without a valid basis, so that prohibition requires strong normative justification.<sup>38</sup> This verse is often cited by scholars who reject a blanket ban on art as contrary to the principle of moral freedom guaranteed by the Qur’an.<sup>39</sup>

<sup>31</sup> Abu ’Abdullah Muhammad bin Ismail al-Bukhari, *Shahih al-Bukhari* (Damaskus: Dar ibnu kAthir, 1993), 2123.

<sup>32</sup> Teguh Ifandy dan Idaul Hasanah, “Maslahat (Benefits) in Fiqh Awlāwiyāt: A Comparison between Yūsuf al-Qarādhawī’s View and Abdus Salam Alī al-Karbulī’s,” *Al-’Adalah* 21, no. 1 (25 Juni 2024): 1, doi:10.24042/adalah.v21i1.21316.

<sup>33</sup> Syamdu al-Din al-Kirmani, *al-Kawakib al-Darari fi Sharah Shahih al-Bukhari* (Beirut: Dar Ihya al-Thurath, 1981), 120.

<sup>34</sup> Nile Green, “Islam in the early modern world,” dalam *The Cambridge World History*, ed. oleh Jerry H. Bentley, Sanjay Subrahmanyam, dan Merry E. Wiesner-Hanks, 1 ed. (Cambridge University Press, 2015), 358–86, doi:10.1017/CBO9781139022460.016.

<sup>35</sup> Ines Weinrich, “Sensing Sound: Aesthetic and Religious Experience According to al-Ghazālī,” *Entangled Religions* 10 (17 Desember 2019), doi:10.46586/er.10.2019.8437.

<sup>36</sup> Syed Muhammad Naquib al Attas, *Prolegomena to the Metaphysics of Islam an Exposition of the Fundamental Elements of The Worldview of Islam* (Kuala Lumpur: International Institute Of Islamic Thought And Civilization (ISTAC), 1995), 1–41.

<sup>37</sup> M. Quraish Shihab, *Tafsir al-Mishbah: Pesan, Kesan, dan Keserasian al-Qur’an*, vol. Jilid 5 (Tafsir QS. al-A’rāf) (Jakarta: Lentera Hati, 2002), 56–70.

<sup>38</sup> Fazlur Rahman, *Islam and Modernity: Transformation of an Intellectual Tradition* (London: The University of Chicago Press, 1982), 13–44.

<sup>39</sup> Yusuf al Qaradwai, *The Lawful And The Prohibited in Islam Al Halal Wal-Haram Fil Islam* (Plainfield, Indiana: Ammerican Trust Publication, 1994), 14–36.

Furthermore, Surah Al-Isra' verse 64 reads:

وَأَسْتَفْزِرُّ مَنِ اسْتَضَاعَتْ مِنْهُمْ بَصَوْتِكَ وَأَجْلِبْ عَلَيْهِمْ بِخَيْلِكَ وَرَجِلِكَ وَشَارِكِهِمْ فِي الْأَمْوَالِ وَالْأَوْلَادِ وَعَدَّهُمْ مَا يُعَدُّهُمْ  
الشَّيْطَانُ إِلَّا غُرُورًا

Meaning: *And incite [to senselessness] whoever you can among them with your voice and assault them with your horses and foot soldiers and become a partner in their wealth and their children and promise them." But Satan does not promise them except delusion.* (Q.S. Al-Isra'[17]: 64)

According to Wahbah az-Zuhaili, QS. al-Isrā' [17]: 64 explains the methods and means used by Satan to mislead humans after he was given permission to tempt them until the Day of Judgement. In Tafsīr al-Munīr, az-Zuhaili interprets the phrase *biṣawtik* (with your voice) as all forms of calls, propaganda, and invitations that encourage humans to commit sins and deviate from divine values. The voice of Satan is not limited to its literal meaning, but includes all means of communication and expression, including speech, entertainment media, and cultural discourse that serve to arouse lust, normalise immorality, and weaken spiritual awareness. Az-Zuhaili quotes the opinion of the salaf scholars who include songs and entertainment that cause distraction in the category of *ṣawt al-shayṭān*, but he emphasises that this interpretation is functional, not formalistic.<sup>40</sup>

The last verse that can be used as a basis in relation to entertainment or music within the scope of Islam is found in QS. An-Najm, verses 59-61, which reads:

أَفَمِنْ هَذَا الْحَدِيثِ تَعْجَبُونَ وَتَضْحَكُونَ وَلَا تَبْكُونَ وَأَنْتُمْ سَمُودٌ

Meaning: *Then, at this statement, do you wonder? And you laugh and do not weep, While you are proudly sporting?.* (Q.S. An-Najm[53]: 59-61).

When linked to the prohibition of music concerts, within the framework of Ibn Kathir's interpretation, this verse does not speak of the absolute and explicit prohibition of music, but condemns entertainment as a means of distraction and rejection of revelation. When singing, entertainment, or similar activities, which in the modern context can take the form of music concerts, serve to distract from remembrance of God and religious obligations, foster an attitude of disregard for divine values, or become a symbol of cultural resistance to Islamic teachings, then such practices fall into the category of "*ṣawt al-lahm*" and "samad" condemned by the Qur'an. Therefore, the prohibition of music concerts in some religious fatwas is contextual and preventive, not normatively absolute, aiming to prevent social and spiritual impacts in line with the condemnation in this verse. Thus, this verse in Ibn Kathir's interpretation serves as an ethical and moral argument, not as an explicit text prohibiting art. The prohibition is enforced when music and concerts transform into a medium of collective negligence, normalisation of immorality, and rejection of revelatory values, as described by the behaviour of the polytheists in this verse.<sup>41</sup>

## METHOD

<sup>40</sup> Wahbah az Zuhaili, *Tafsīr al-Munīr fī al-'Aqīdah wa al-Sharī'ah wa al-Manhaj*, vol. Jilid 15 (Beirut: Dār al-Fikr, 1991), 112–15.

<sup>41</sup> Ibnu Katsīr, *Tafsīr al-Qur'ān al-'Azīm, tabqīq: Sāmī ibn Muḥammad Salāmah*, vol. Jilid 7 (Riyadh: Dār Ṭayyibah li al-Nashr wa al-Tawzī, 1999), 465–67.

This study adopts a legal-normative approach integrated with critical discourse analysis as a methodological strategy to uncover power relations and ideological constructions in the text of the Aceh MPU Fatwa No. 12 of 2013 on Arts, Culture, and Other Entertainment.<sup>42</sup> This study uses a methodological triangulation framework that combines three levels of analysis: (1) doctrinal analysis of primary legal sources<sup>43</sup> in the form of Aceh MPU Fatwa No. 12 of 2013 and a circular letter prohibiting music concerts; (2) hermeneutic-contextual analysis of classical and contemporary fiqh siyasah literature to identify the genealogy of the concepts of *maslahah mursalah* and *sadd al-dzari'ah* in the construction of fatwas;<sup>44</sup> (3) critical discourse analysis using Teun A. van Dijk's model<sup>45</sup> to explore how the syntactic, semantic, and rhetorical structures in fatwas function as instruments of legitimising power and shaping social cognition.<sup>46</sup> The integration of these three levels of analysis enables research to not only identify the normative basis of fatwas but also reveal the political-discursive dimensions of the transformation of religious authority into binding public policy.<sup>47</sup>

## RESULTS AND DISCUSSION

### 1. The Construction of *Fiqh Siyasah* in Aceh MPU Fatwa Number 12 of 2013

Aceh MPU Fatwa Number 12 of 2013, concerning Arts, Culture, and Other Entertainments from the Perspective of Islamic Sharia, constructs a categorization of cultural arts based on the principles of *siyasah shar'iyah*, operationalizing the concepts of *maslahah mursalah* (public interest) and *saddu al-dzari'ah* (blocking the means to harm) as methods of legal determination.<sup>48</sup> Within the construction of this *fatwa*, musical concerts are categorized as activities possessing the potential to lead to harm (*mafsadah*); thus, the application of the *saddu al-dzari'ah* principle to close the paths leading to forbidden acts serves as the primary justification for the prohibition.<sup>49</sup> However, this argumentation faces fundamental epistemological problematics: first, the *fatwa* fails to explicitly define objective parameters to determine when a form of musical art is categorized as "containing elements of immorality" or "capable of arousing lust," thereby creating an expansive interpretive space that is potentially arbitrary in its implementation.<sup>50</sup> Second, the *saddu al-dzari'ah* approach employed

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<sup>42</sup> Norman Fairclough dan Isabela Fairclough, "A Procedural Approach to Ethical Critique in CDA," *Critical Discourse Studies* 15, no. 2 (15 Maret 2018): 169–85, doi:10.1080/17405904.2018.1427121.

<sup>43</sup> Terry Hutchinson dan Nigel Duncan, "Defining and Describing What We Do: Doctrinal Legal Research," *Deakin Law Review* 17, no. 1 (1 Oktober 2012): 83, doi:10.21153/dlr2012vol17no1art70.

<sup>44</sup> Omer Awass, *Fatwa and the Making and Renewal of Islamic Law: From the Classical Period to the Present*, 1 ed. (Cambridge University Press, 2023), doi:10.1017/9781009260923.

<sup>45</sup> Teun A. Van Dijk, "Critical Discourse Analysis," dalam *The Handbook of Discourse Analysis*, ed. oleh Deborah Tannen, Heidi E. Hamilton, dan Deborah Schiffrin, 1 ed. (Wiley, 2015), 466–85, doi:10.1002/9781118584194.ch22.

<sup>46</sup> Fariz Alnizar, "The Language of Exclusion: Ideology and Power in the Fatwa of the Majelis Ulama Indonesia on Ahmadiyah," *Journal of Islamic Law* 6, no. 1 (20 Februari 2025): 67–88, doi:10.24260/jil.v6i1.3338.

<sup>47</sup> John R. Bowen, *Islam, Law, and Equality in Indonesia: An Anthropology of Public Reasoning*, 1 ed. (Cambridge University Press, 2003), doi:10.1017/CBO9780511615122.

<sup>48</sup> Arief Rahman Fadli, "Penerapan mashlahah mursalah & saddu adz-dzari'ah dalam kompilasi hukum islam Indonesia (studi analisis)" (Tesis, UIN Syarif Hidayatullah Jakarta, 2018), <http://repository.uinjkt.ac.id/dspace/handle/123456789/40837>.

<sup>49</sup> Hariyanto Hariyanto, Muhammad Mutawalli Mukhlis, dan Daud Rismana, "The Role and Authority of the Deputy Regional Head According to Islamic Principles within the Framework of Regional Government Law," *JURIS (Jurnal Ilmiah Syariah)* 24, no. 1 (7 Februari 2025): 13, doi:10.31958/juris.v24i1.12678.

<sup>50</sup> Moch Nur Ichwan, *The Politics of Shariatization: Central Governmental and Regional Discourses of Shari'a Implementation in Aceh*, in Michael Feener and Mark Cammack (Eds.), *Islamic Law in Contemporary Indonesia: Ideas and Institutions* (Boston: Islamic Legal Studies Program, Harvard University Press, 2007).



by the Aceh MPU tends to be absolutist, offering no room for the principles of *istihsan* (juridical preference) or *dharurah* (necessity), which in classical *fiqh* traditions serve as essential counterbalances to an overly rigid application of *saddu al-dzari'ah*.<sup>51</sup>

Politically, the construction of this *fatwa* is inextricable from the power relations between religious authorities and the local state within the context of Aceh's special autonomy.<sup>52</sup> By mobilizing *siyasah shar'iyah* as a normative justification, this *fatwa* functions not merely as a product of religious *ijtihad*, but also as a discursive instrument to define politically legitimate boundaries of public morality.<sup>53</sup> From this perspective, the application of *saddu al-dzari'ah* toward musical concerts reflects a logic of "preventive governance," wherein potential moral risks are treated as collective threats requiring state intervention, even in the absence of adequate empirical evidence. Such an approach aligns with what Wael B. Hallaq (2013)<sup>54</sup> terms "the moralization of state power," where moral-religious claims are utilized to extend the reach of state regulation into the realm of citizens' cultural praxis.

Consequently, the Aceh MPU Fatwa Number 12 of 2013 which serves as a collective reference for local governments to subsequently issue circular letters prohibiting musical concerts can be understood as a political-discursive practice aimed at consolidating religious authority in the public sphere through the language of law and policy.<sup>55</sup> However, this strategy paradoxically suggests that as the *qanun* is increasingly enforced as positive law without contextual differentiation or public participation, it loses its normative legitimacy in the eyes of the community. While intended to strengthen Sharia as a living public ethic, this approach risks alienating citizens and reducing Islam to a symbol of social control, as critiqued in contemporary critical Islamic legal literature.<sup>56</sup>

Based on the construction of Aceh MPU Fatwa Number 12 of 2013, it is clear that this fatwa serves a dual function: as a moral-religious guideline and as a political instrument to regulate public behavior. The absolutist approach of *saddu al-dzari'ah* and the absence of objective parameters create a wide interpretive space that is potentially arbitrary, so that decisions to prohibit music concerts may be perceived more as acts of social control than as the application of evidence-based law. Politically, this fatwa reflects a logic of preventive governance, wherein potential moral risks are treated as collective threats requiring state intervention, even when empirical evidence is limited. In the long term, the strengthening of religious authority through legal mechanisms without public participation can (1) reduce the normative legitimacy of the fatwa; (2) weaken public trust; and (3) transform the function of shariah from a living public ethic into a symbol of social control. This can create tensions between moral objectives and participatory democratic practices in Aceh.

<sup>51</sup> Mohammad Fadel, "Political Legitimacy, Democracy and Islamic Law: The Place of Self-Government in Islamic Political Thought," *Journal of Islamic Ethics* 2, no. 1–2 (15 November 2018): 59–75, doi:10.1163/24685542-12340015.

<sup>52</sup> M. Zuhri dkk., "The Urgency of Legal Policy in Encouraging Environmentally Friendly Elections in Aceh," *El-Usrah: Jurnal Hukum Keluarga* 8, no. 2 (31 Desember 2025): 1120–37, doi:10.22373/ujhk.v8i2.25888.

<sup>53</sup> Zulkarnaini Zulkarnaini, Muhammad Ansor, dan Laila Sari Masyhur, "Sharia in power: non-Muslims and the performance of Islamic politics in Aceh public Sphere, Indonesia," *Indonesian Journal of Islam and Muslim Societies* 12, no. 2 (17 Desember 2022): 257–83, doi:10.18326/ijims.v12i2.257-283.

<sup>54</sup> Wael B. Hallaq, *The Impossible State* (Columbia University Press, 2013), <http://www.jstor.org/stable/10.7312/hall16256>.

<sup>55</sup> Jan Zienkowski, "Politics and the Political in Critical Discourse Studies: State of the Art and a Call for an Intensified Focus on the Metapolitical Dimension of Discursive Practice," *Critical Discourse Studies* 16, no. 2 (15 Maret 2019): 131–48, doi:10.1080/17405904.2018.1535988.

<sup>56</sup> Talal Asad, "Thinking about religion, belief, and politics," dalam *The Cambridge Companion to Religious Studies*, ed. oleh Robert A. Orsi, 1 ed. (Cambridge University Press, 2011), 36–57, doi:10.1017/CCOL9780521883917.004.

## 2. Mechanisms of Transforming *Fatwas* into Binding Public Policy

The mechanism of transforming Aceh MPU Fatwa Number 12 of 2013 into binding public policy through regional head circular letters and other administrative regulations demonstrates a practice of "institutional bypass" regarding the democratic legislative procedures normatively established within the Acehnese legal system. Although the *qanun* mechanism requires joint deliberation with the DPRA (Regional People's Representative Council), public consultation, and open political and legal testing, the *fatwa* is instead diverted into the form of administrative policy possessing *de facto* coercive power.<sup>57</sup> From a legal-political perspective, this practice marks a shift in the *locus* of law-making from representative-democratic arenas to relatively closed technocratic-administrative arenas, thereby diminishing the space for public accountability.<sup>58</sup>

This phenomenon reinforces the thesis regarding the emergence of the quasi-legislative power of *fatwa* institutions, wherein religious authorities acquire regulative functions devoid of electoral mandates or the checks-and-balances mechanisms typically inherent in legislative power.<sup>59</sup> Circular letters, which theoretically maintain a purely internal-administrative nature, function in Aceh's practice as normative instruments to regulate broader citizen behavior, even surpassing their juridical basis. This condition exemplifies what Otto (2010) characterizes as "legal hybridity under weak accountability," a state in which various legal sources operate simultaneously in the absence of a clear hierarchy and conflict resolution mechanism.<sup>60</sup>

Such structural tensions intensify when situated within the context of Aceh's legal pluralism.<sup>61</sup> The coexistence of Islamic law, customary law (*adat*)<sup>62</sup>, and national law does not operate within an egalitarian framework, but rather in a competitive relationship saturated with the politics of knowledge and claims of normative supremacy.<sup>63</sup> In the case of prohibiting musical concerts, religious authorities through the *fatwa* of the Aceh Ulama Council (MPU) effectively dominate the public policy sphere, while constitutional principles such as freedom of expression and non-discrimination are relegated to secondary

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<sup>57</sup> Syahrizal Abbas dkk., "Dynamics Of Sharia Law Taqin In Aceh 2013-2017: Analysis Of Regulative Policies And Social Reality," *Petita: Jurnal Kajian Ilmu Hukum Dan Syariah* 9, no. 1 (24 Februari 2024): 269–89, doi:10.22373/petita.v9i1.286.

<sup>58</sup> Allegra H. Fullerton, "Democracy Administered: How Public Administration Shapes Representative Government: By Anthony Michael Bertelli, Cambridge, Cambridge University Press, 2021, 245 Pp., \$25.99 (Paperback), ISBN: 978-1-316-62109-7," *Journal of Public Affairs Education* 29, no. 1 (2 Januari 2023): 113–15, doi:10.1080/15236803.2022.2107418.

<sup>59</sup> Alfitri Alfitri, "Bureaucratizing Fatwā in Indonesia: The Council of Indonesian Ulama and Its Quasi-Legislative Power," *Ulumuna Journal of Islamic Studies* Vol. 24, No. 2 (2020): 367–97.

<sup>60</sup> *Sharia Incorporated: A Comparative Overview of the Legal Systems of Twelve Muslim Countries in Past and Present* (Leiden University Press, 2010), <http://www.jstor.org/stable/j.ctv30hx3wg>.

<sup>61</sup> Misran Ramli dkk., "State, Custom, and Islamic Law in Aceh: Minor Dispute Resolution in the Perspective of Legal Pluralism," *Samarah: Jurnal Hukum Keluarga dan Hukum Islam* 8, no. 2 (21 Mei 2024): 872, doi:10.22373/sjhk.v8i2.15924.

<sup>62</sup> Duhriah Duhriah dkk., "Institutionalization of Islam and Adat: The Legal System of Hak Langgeih in Aceh," *JURIS (Jurnal Ilmiah Syariah)* 23, no. 1 (10 Juni 2024): 41, doi:10.31958/juris.v23i1.7482.

<sup>63</sup> Ratno Lukito, "Shariah And The Politics Of Pluralism In Indonesia: Understanding State's Rational Approach To Adat And Islamic Law," *Petita: Jurnal Kajian Ilmu Hukum Dan Syariah* 4, no. 1 (29 Juli 2019): 14–30, doi:10.22373/petita.v4i1.8.

considerations. This indicates that legal pluralism in Aceh manifests as hierarchical pluralism rather than dialogical pluralism.<sup>64</sup>

From the perspective of deliberative democracy, the legitimacy deficit in the transformation of *fatwas* into public policy becomes increasingly apparent. The tradition of *shura* in Islam, as asserted by Abou El Fadl (2005), is not merely symbolic consultation among elites, but rather an ethical mechanism to ensure that collective decisions reflect public rationality and substantive justice.<sup>65</sup> However, the *ijtima'* (consensus) practices of the Aceh MPU represent more of an "epistemic closure" model, where the authority of religious knowledge is centralized within a restricted group, bypassing dialogue with other social actors directly impacted by such policies.<sup>66</sup> Consequently, the *maslahah* (public interest) claimed within the *fatwa* is never tested through a deliberative process that allows for correction, resistance, or policy alternatives.

Consequently, the mechanism by which Aceh MPU *Fatwa* No. 12 of 2013 is transformed into public policy does not merely encompass juridical-procedural issues; it also reflects a more fundamental problem concerning the democratization of religious authority, the accountability of Sharia-based policies, and the future of legal pluralism in Aceh.<sup>67</sup> Without a reformulation of mechanisms that integrate public participation, rational deliberation, and constitutional review, *fatwa*-based policies risk continuously reproducing a legitimacy deficit and undermining public trust in the project of Sharia formalization itself.

Transforming Aceh MPU *Fatwa* No. 12 of 2013 into enforceable public policy reveals a structural imbalance in governance, where religious authority bypasses democratic oversight and procedural safeguards. By institutionalizing a *fatwa* with interpretive ambiguity as a coercive tool, the process privileges moral-religious imperatives over empirical evidence and constitutional rights, thereby concentrating regulatory power in a narrow elite.<sup>68</sup> This approach undermines participatory policymaking, weakens transparency and accountability, and risks normalizing arbitrary interventions in cultural life, ultimately eroding public trust and highlighting the tension between formal sharia implementation and the principles of modern democratic governance.

### 3. Governance in Aceh and the Decline of Public Trust in the Context of Music Concerts

The phenomenon of banning musical concerts in Aceh cannot be understood merely as a matter of art law or public morality; rather, it constitutes an important indicator of the quality of governance within a special autonomy regime grounded in Sharia.<sup>69</sup> Policies referring to the *Fatwa* of the Aceh Ulama Consultative Assembly (MPU) No. 12 of 2013 demonstrate how religious norms are transformed into administrative actions without

<sup>64</sup> Jm. Muslimin Jm. Muslimin, "Shari'a Politics: Islamic Law and Society in the Modern World," *JURNAL INDO-ISLAMIKA* 5, no. 2 (8 Juli 2019): 338–47, doi:10.15408/idi.v5i2.11753.

<sup>65</sup> Khaled Abou El Fadl, "Islam and the Challenge of Democracy," *Journal of Scholarly Perspectives* 1(01) (2005): 1–18.

<sup>66</sup> Syafiq Hasyim, "Fatwas and Democracy: Majelis Ulama Indonesia (MUI, Indonesian Ulema Council) and Rising Conservatism in Indonesian Islam," *TRaNS: Trans -Regional and -National Studies of Southeast Asia* 8, no. 1 (2020): 21–35, doi:10.1017/trn.2019.13.

<sup>67</sup> Mursyid Djawas dkk., "Harmonization of State, Custom, and Islamic Law in Aceh: Perspective of Legal Pluralism," *Hasanuddin Law Review* 10, no. 1 (1 Mei 2024): 64, doi:10.20956/halrev.v10i1.4824.

<sup>68</sup> Maskur Rosyid, "Reading *Fatwas* of MUI a Perspective of *Maslahah* Concept," *Syariah: Jurnal Hukum dan Pemikiran* 19, no. 1 (2 Juni 2019): 91, doi:10.18592/sjhp.v19i1.2726.

<sup>69</sup> Will Smiley, "The Other Muslim Bans," *Journal of Islamic Law* 1, no. 1 (29 Mei 2020): 2–38, doi:10.53484/jil.v1.smiley.

consistently passing through deliberative and transparent legislative procedures.<sup>70</sup> In this context, the banning of musical concerts becomes a relevant case study for assessing the extent to which the principles of the rule of law, accountability, and public participation are implemented in the practice of governance in Aceh.<sup>71</sup>

Empirically, the cancellation of concerts across various regencies and municipalities reveals a pattern of inconsistent implementation. On the one hand, certain concerts have been prohibited on the basis of normative recommendations; on the other hand, similar events in different areas have proceeded with only limited supervision. This variation indicates the presence of broad administrative discretion without standardized operational parameters. When interpretative (*zanni*) norms are treated as though they possess legal certainty equivalent to a *qanun*, the space for official interpretation becomes dominant. Such a situation weakens legal certainty and generates perceptions of “regulatory arbitrariness,” which, in public governance literature, directly contributes to the erosion of policy legitimacy.<sup>72</sup>

The fragmentation of authority further exacerbates this dynamic. Religious authorities as norm-formulators, local governments as administrative decision-makers, and enforcement agencies as field implementers are not always operating within a synchronized coordination framework. This lack of harmonization creates a gap between normative doctrine and practical implementation. In several cases, pressure from particular community groups has accelerated the cancellation of concerts, making the state appear more as a mediator and executor of dominant moral demands rather than as a neutral and rational manager of public space.<sup>73</sup>

The impact of poorly coordinated governance has led to a decline in public trust, particularly among youth, artistic communities, and minority groups.<sup>74</sup> Concert bans implemented without inclusive mechanisms of public participation create the impression that claims of *maṣlahah ‘ammah* (public interest) are determined in an elitist manner. In fact, within the frameworks of *fiqh siyasah* and deliberative democracy, the legitimacy of public policy requires consultative processes that allow for rational scrutiny, transparency of reasoning, and proportionality review of the policy measures adopted.<sup>75</sup>

From the perspective of *maqāṣid al-shar‘ah*, the objective of safeguarding public morality should be balanced with the protection of *ḥifẓ al-‘aql* (protection of intellect), *ḥifẓ al-māl* (protection of property and economic interests), and *ḥifẓ al-‘ird* (protection of dignity and

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<sup>70</sup> La Jamaa, “Fatwas of the Indonesian council of ulama and its contributions to the development of contemporary Islamic law in Indonesia,” *Indonesian Journal of Islam and Muslim Societies* 8, no. 1 (2 Juli 2018): 29, doi:10.18326/ijims.v8i1.29-56.

<sup>71</sup> Nurul Nur Azizah, “Live Music in Bireuen Aceh is Prohibited and Considered to Cause Lust,” *Konde.co*, 2023, <https://www.konde.co/2023/08/live-music-in-bireuen-aceh-is-prohibited-and-considered-to-cause-lust/>.

<sup>72</sup> Colin Scott, “Private Regulation of the Public Sector: A Neglected Facet of Contemporary Governance,” *Journal of Law and Society* 29, no. 1 (Maret 2002): 56–76, doi:10.1111/1467-6478.00211.

<sup>73</sup> Abdul Manan dan Cut Intan Salasiah, “Evaluating the Implementation of Sharia in Aceh, Indonesia,” *Jurnal Ilmiah Peuradeun* 9, no. 3 (30 September 2021): 549, doi:10.26811/peuradeun.v9i3.593.

<sup>74</sup> Dian Andi Nur Aziz dkk., “Examining Qanun in Aceh from a human rights perspective: status, substance and impact on vulnerable groups and minorities,” *Ijtihad: Jurnal Wacana Hukum Islam dan Kemanusiaan* 23, no. 1 (5 Juni 2023): 37–56, doi:10.18326/ijtihad.v23i1.37-56.

<sup>75</sup> Badruddin Badruddin dan Aditya Prastian Supriyadi, “Dinamika Hukum Islam Indonesia: Reaktualisasi Norma Islam dalam Menalarkan Hukum Positif Merespon Sosio-Kultural Era Kontemporer,” *De Jure: Jurnal Hukum dan Syar‘iah* 14, no. 1 (29 Juni 2022): 38–57, doi:10.18860/j-fsh.v14i1.15512.

honor).<sup>76</sup> A total prohibition of musical concerts without empirical impact assessment and without considering more proportionate regulatory alternatives risks generating new *mafsadah*, such as economic losses, restrictions on cultural expression, and the widening social distance between the state and its citizens. Thus, the core problem does not lie in the religious norm itself, but rather in a governance design that has not fully integrated the principles of deliberation, institutional coordination, and proportionality review in public policy-making.<sup>77</sup>

The music concerts in Aceh reflects a systemic tension between the formal implementation of Sharia and the quality of public governance, often carried out inconsistently and in a centralized manner.<sup>78</sup> The fragmentation of roles among religious authorities, local governments, and law enforcement agencies reinforces legal uncertainty and creates a gap between normative principles and practical implementation, which in turn erodes public trust, particularly among youth and artistic communities. Reliance on a top-down approach without empirical evaluation or participatory mechanisms also has the potential to generate new *mafsadah*, including economic losses, restrictions on cultural expression, and a widening social distance between the state and its citizens.

Therefore, the phenomenon of music concert prohibitions in Aceh demonstrates that the sustainability of Sharia formalization is highly dependent on the reformulation of governance structures.<sup>79</sup> Strengthening formal legislative mechanisms through qanun enactment, standardizing implementation procedures, establishing multi-stakeholder consultation forums, and applying maqāṣid-based policy evaluation indicators constitute strategic steps toward restoring public trust.<sup>80</sup> Without such reconstruction, fatwa-based policies risk continuing to face legitimacy deficits and may further deepen social fragmentation within post-conflict Acehnese society.

## DISCUSSION

### Reconstruction of Qanun Drafting: Contextual, Participatory, and Transparent Islamic Arts and Culture

The phenomenon of music concert in Aceh underscores the urgent need to reformulate regulatory mechanisms for Islamic arts and culture to prevent Sharia-based policies from becoming instruments of arbitrary rule or elitist social control. Findings from this study indicate that qanun drafting that relies solely on MPU fatwas No. 12 of 2013 as normative references tends to produce legitimacy deficits, as such fatwas are inherently *ijtihādī* and interpretive, and are often legitimized absolutistically without deliberative procedures or

<sup>76</sup> Zakaria Syafei, "Tracing Maqasid Al-Shari'ah In The Fatwas Of Indonesian Council Of Ulama (MUI)," *Journal Of Indonesian Islam* 11, no. 1 (9 Juli 2017): 99, doi:10.15642/JIIS.2017.11.1.99-124.

<sup>77</sup> Fadel, "Political Legitimacy, Democracy and Islamic Law"; Hasyim, "Fatwas and Democracy: Majelis Ulama Indonesia (MUI, Indonesian Ulama Council) and Rising Conservatism in Indonesian Islam"; Seyfeddin Neslinebi, "A Comparison of Shura and Deliberative Democracy Decision-Making Methods: Similarities and Differences," *International Journal of Emerging Issues in Islamic Studies* 4, no. 2 (30 Desember 2024): 87–102, doi:10.31098/ijeis.v4i2.2953.

<sup>78</sup> Muhammad Amin Suma, Ridwan Nurdin, dan Irfan Khairul Umam, "The Implementation of Shari'a in Aceh: Between the Ideal and Factual Achievements," *AHKAM: Jurnal Ilmu Syariah* 20, no. 1 (30 Juni 2020), doi:10.15408/ajis.v20i1.14704.

<sup>79</sup> Mohd Harifadilah Rosidi, "Navigating Fatwa Governance: A Comparative Study of Institutional Centralisation and Religious Legitimacy," *International Journal of Research and Innovation in Social Science* IX, no. V (2025): 3238–44, doi:10.47772/IJRISS.2025.905000252.

<sup>80</sup> Rohidin Rohidin dkk., "Exclusive Policy in Guaranteeing Freedom of Religion and Belief: A Study on the Existence of Sharia-Based Local Regulations in Indonesia and Its Problems," *Cogent Social Sciences* 9, no. 1 (31 Desember 2023): 2202939, doi:10.1080/23311886.2023.2202939.

objective parameters. Consequently, the reconstruction of qanun should adhere to participatory, inclusive, and transparent principles, ensuring that regulations remain responsive to the evolving cultural expressions of society.

The participatory principle emphasizes the involvement of diverse stakeholders including artists, academics, community leaders, religious organizations, and local government in the legislative process. This approach aligns with deliberative democracy literature, which asserts that the legitimacy of public policy depends on consultative processes that allow for the testing of rational arguments and empirical considerations before norms are enacted.<sup>81</sup> In the Acehnese context, such participation would balance the authority-centric model of *fiqh siyāsah* with deliberative practices that uphold the *maqāsid al-sharīʿah* proportionally, including the protection of intellectual freedom (*ḥifẓ al-ʿaql*), property and economic interests (*ḥifẓ al-māl*), and social dignity and honor (*ḥifẓ al-ʿird*).

Moreover, the principle of inclusivity requires that the qanun not only reflect the views of the majority or religious elites but also take into account the perspectives of minorities, artistic communities, and the younger generation.<sup>82</sup> Studies on post-conflict governance indicate that ignoring the voices of these groups can potentially produce regulatory arbitrariness and erode public trust.<sup>83</sup> Through an inclusive mechanism, the qanun draft can identify categories of arts and culture that align with Islamic values in a contextual manner, while simultaneously allowing space for creative expression that reflects ongoing socio-cultural developments.

Transparency becomes a critical component to ensure that the qanun is accountable and defensible. An open legislative process from draft publication, public consultation, to implementation evaluation enables the community to understand the normative basis, provide input, and assess the proportionality of policies. This practice aligns with the principles of good governance in the context of modern Islamic law, where the legitimacy of formal Sharia derives not only from religious authority but also from fair and transparent procedural mechanisms.<sup>84</sup>

A qanun reconstructed on participatory, inclusive, and transparent principles not only strengthens legal legitimacy but also allows flexibility in response to evolving cultural expressions. For instance, criteria for organizing Islamic concerts could incorporate contextually adapted indicators such as content, timing, venue, and gender separation, ensuring that policies respect Sharia while remaining socially responsive. In this way, Sharia implementation is perceived not as an exclusive instrument of social control but as a living, adaptive public ethic.<sup>85</sup>

The reconstruction of qanun regulating Islamic arts and culture through participatory, inclusive, and transparent processes offers a strategic framework to align Sharia-based

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<sup>81</sup> James S. Fishkin, *Democracy When the People Are Thinking*, vol. 1 (Oxford University Press, 2018), doi:10.1093/oso/9780198820291.001.0001.

<sup>82</sup> Khamami Zada dkk., “Muslim Youth Under Sharia Regime in Aceh: From Accommodation to Resistance,” *AL-IHKAM: Jurnal Hukum & Pranata Sosial* 17, no. 2 (31 Desember 2022): 412–33, doi:10.19105/al-lhkam.v17i2.7262.

<sup>83</sup> Maimun dkk., “Religion and local culture: Pillars of social harmony in post-conflict Aceh,” *Jurnal Civics: Media Kajian Kewarganegaraan* 22, no. 2 (17 September 2025): 253–67, doi:10.21831/jc.v22i2.87874.

<sup>84</sup> David Kloos, *Becoming Better Muslims: Religious Authority and Ethical Improvement in Aceh, Indonesia* (Princeton University Press, 2018), doi:10.1515/9781400887835.

<sup>85</sup> Faisal A Rani, Fikri Fikri, dan Mahfud Mahfud, “Islam and National Law: A Formal Legal Review on Sharia Laws in Aceh,” *Al-Risalah: Forum Kajian Hukum dan Sosial Kemasyarakatan* 20, no. 1 (28 Mei 2020): 47–57, doi:10.30631/alrisalah.v20i1.521.

governance with the principles of deliberative democracy.<sup>86</sup> This approach not only ensures the sustainability of Sharia formalization in Aceh but also safeguards the cultural rights of the community, emphasizing that the legitimacy and effectiveness of Sharia-based policies are determined primarily by the quality of the legislative process rather than solely by the religious authority issuing the fatwa. Accordingly, an open, contextual, and responsive legislative process becomes the cornerstone for the implementation of adaptive and accountable Sharia in a pluralistic society.

## CONCLUSION

The prohibition of music concerts in Aceh, as formalized through MPU Fatwa No. 12 of 2013, illustrates the complex interplay between religious authority, legal-normative frameworks, and public governance within the context of post-conflict Aceh. While the fatwa draws its legitimacy from classical and contemporary *fiqh siyasah* principles, particularly *siyāsah shar‘iyyah*, *maṣlaḥah mursalah*, and *saddu al-dzari’ah*, its translation into binding regional policy has revealed critical gaps in democratic legitimacy, institutional coordination, and proportional policy implementation.

The study demonstrates that the fatwa functions not only as a moral-religious guideline but also as a discursive instrument of social control, capable of constraining cultural plurality when implemented without formal qanun mechanisms or inclusive public deliberation. Epistemologically, the operationalization of *maṣlaḥah* in the context of music concerts has been distorted, prioritizing declarative religious authority over empirical verification and participatory governance. The resulting inconsistencies in enforcement, selective administrative discretion, and lack of multi-stakeholder involvement have contributed to the erosion of public trust and social cohesion, undermining the broader objectives of Sharia as a living public ethic.

To address these structural and normative deficits, the study recommends a paradigmatic reconstruction of Sharia governance in Aceh: (1) adoption of formal qanun regulating Islamic arts and culture through participatory, transparent, and inclusive processes; (2) integration of deliberative mechanisms that engage diverse stakeholders, including artists, minority groups, and civil society; (3) empirical assessment of *maṣlaḥah* and proportionality review in line with *maqāṣid al-shari’ah*; and (4) institutional coordination to harmonize fatwa issuance, policy translation, and enforcement. Such measures would transform declarative authority into deliberative legitimacy, ensuring that Sharia-based policies protect moral and religious values while simultaneously safeguarding human dignity, cultural expression, and constitutional rights.

## CRedit Author Statement

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Aty Munshihah: Writing-review & editing (English language editing and proofreading), Manuscript refinement, Quality control.

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<sup>86</sup> Syariful Alam, Sholahuddin Al-Fatih, dan Merve Ozkan Borsa, “Islamism and The Challenge of Democratization in Indonesia,” *De Jure: Jurnal Hukum dan Syar’iah* 15, no. 2 (29 Desember 2023): 198–213, doi:10.18860/j-fsh.v15i2.23398.

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