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Tensions Between Fatwa and Human Rights: A Critical Study of The Legal Controversy Surrounding Smoking in Indonesia

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ABSTRACT

The controversy surrounding smoking regulations in Indonesia highlights a significant tension between religious authority, individual liberty, public health protection, and the fulfillment of human rights. Divergent perspectives among Islamic organizations regarding the permissibility of smoking particularly the fatwas issued by the Indonesian Ulema Council (MUI) and Muhammadiyah raise critical questions concerning the jurisdictional limits of fatwas in governing societal behavior and their intersection with state legal policies. This study employs a qualitative, library-based research approach, conducting a critical analysis of academic literature, scientific journal articles, fatwa documents, statutory regulations, and human rights instruments. The findings indicate that: 1) Discrepancies in fatwas concerning smoking reflect the methodological diversity in Islamic jurisprudence when evaluating harm, public interest, and evolving medical knowledge; 2) While religious fatwas possess moral and normative authority for Muslims, they do not inherently hold the legally binding force of state legislation; 3) The right to health, protection from secondhand smoke, religious freedom, and the economic rights of tobacco farmers and workers must be situated within a framework of constitutional equilibrium; and 4) Harmonizing fatwas, health policies, and human rights necessitates a proportional, participatory, and evidence-based approach. The study concludes that smoking regulations ought to prioritize the preservation of life and social justice without marginalizing citizens' constitutional rights. Furthermore, policy implementation should be directed toward fortifying tobacco control measures, safeguarding vulnerable demographics, and empowering affected communities.

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1. INTRODUCTION

Smoking constitutes a highly complex public health issue, as it extends beyond mere individual consumption choices to encompass broader economic, cultural, religious, public policy, and human rights dimensions. Within the context of Indonesian society, smoking has become deeply entrenched as a social norm prevalent across diverse settings, ranging from domestic households and workplaces to social gatherings and public spaces. Nevertheless, the societal normalization of smoking does not negate its profound health ramifications for both active smokers and individuals subjected to secondhand smoke. This issue is rendered even more critical given that efforts to regulate tobacco consumption must contend with an industry wielding substantial economic influence, alongside a policy framework that frequently lacks consistency in prioritizing public health protection. Consequently, the proliferation of smoking presents a multidimensional challenge that necessitates critical analysis through legal, religious, and human rights paradigms (Kramer et al., 2021).

From a human rights perspective, the discourse on smoking cannot be reduced solely to an individual's autonomy over their bodily consumption habits. While individual liberty serves as a foundational element within a democratic society, its exercise must carefully weigh the rights of others, particularly the fundamental right to a healthy environment devoid of exposure to hazardous substances. The dispersion of secondhand smoke within communal spaces imposes health consequences that are largely beyond the control of non-smokers. Therefore, the state bears a fundamental responsibility to ensure that the exercise of individual freedom does not compromise the health and safety of the broader public. This paradigm underscores that tobacco regulation should be conceptualized as an intrinsic component of human rights protection obligations, particularly when such policies are designed to safeguard vulnerable populations and the general public from preventable health hazards (Sircar & Bialous, 2021).

In Indonesia, the recognition of the right to health and a sustainable environment is constitutionally established under Article 28H, paragraph (1), of the 1945 Constitution of the Republic of Indonesia. This provision enshrines health as a fundamental constitutional right for every individual, thereby obligating the state to develop a protective framework to ensure its realization. Concurrently, developments in national legislation demonstrate an increasingly explicit regulatory approach toward tobacco products as addictive substances. Law Number 17 of 2023 concerning Health governs the management of addictive substances, including the implementation of smoke-free zones, while Government Regulation Number 28 of 2024 provides further stipulations on the control of tobacco products and electronic cigarettes. Nevertheless, these regulatory measures do not equate to an absolute prohibition of cigarette consumption among the general adult population. Instead, the state employs a regulatory paradigm that encompasses sales restrictions, health warnings, promotional limitations, and the safeguarding of specific environments from secondhand smoke (Patterson, 2024).

The discourse acquires further complexity when the legality of smoking is examined through the lens of Islamic jurisprudence. Within the Indonesian context, religious determinations regarding smoking exhibit a notable lack of uniformity. Such divergences stem from the varying methodologies employed by Islamic scholars and religious organizations in evaluating the extent of harm, the sociocultural positioning of the habit, the principle of public interest (maslahah), and the intersection between theological doctrines and medical science. The Indonesian Ulema Council (MUI), via the decree of the III National Fatwa Commission Ijtima in 2009, categorized the ruling on smoking for general adults as a subject of scholarly dispute, oscillating between makruh (reprehensible) and haram (prohibited). However, the council unequivocally declared smoking haram for children, pregnant women, and within public spaces. In contrast, the Tarjih and Tajdid Council of the Muhammadiyah Central Executive, through Fatwa Number 6/SM/MTT/III/2010, issued a definitive ruling classifying all smoking as haram. These discrepancies illustrate the inherent dynamism within Islamic intellectual traditions as they engage with contemporary health challenges and evolving scientific paradigms (Jamil & Al Qurtuby, 2022).

The divergence among these fatwas elicits fundamental inquiries regarding the intersection of religious authority, individual liberty, and state jurisdiction. A fatwa constitutes a derivative of Islamic

legal jurisprudence, formulated through a process of reasoning predicated on religious scriptures and contemporary social realities. Within Muslim communities, fatwas can exert substantial moral influence, functioning as normative guidelines for individuals or collectives that acknowledge the legitimacy of the issuing institutions. Nevertheless, this religious influence does not inherently elevate a fatwa to the status of statutory law with universal binding authority over all citizens. A clear delineation must be established between compliance derived from religious conviction, the internal authority of an organization over its constituency, and the enforcement of state law, which acquires its legitimacy through constitutional mechanisms. Categorizing these distinctions is imperative to ensure that the implementation of fatwas does not compromise the principles of the rule of law and civil liberties (Tamam, 2021).

Furthermore, a discernible tension emerges when the individual freedom to smoke is juxtaposed against the public's right to health protection. On the one hand, adults possess the autonomy to make personal lifestyle choices, provided such decisions do not contravene established legal frameworks. Conversely, this liberty is not absolute, particularly when the ensuing actions introduce risks to third parties or impose a collective burden on the healthcare system. Consequently, the discourse surrounding tobacco regulation is intrinsically linked to the principles of personal autonomy, public health paternalism, and the proportionality of rights limitations. It is insufficient for the state to merely declare a specific behavior hazardous; rather, it is obligated to articulate a robust legal foundation, legitimate objectives, the necessity of the intervention, and an equitable balance between the advantages of public safeguarding and the constraints imposed on individual autonomy. Employing such an analytical framework is instrumental in circumventing two dichotomous extremes: the negligence of public health risks under the guise of liberty, and the disproportionate curtailment of freedom under the pretext of health protection (Schmidt, 2022).

Another dimension that warrants critical consideration is the economic consequence of tobacco control policies. The tobacco industry is intrinsically linked to the livelihoods of laborers, tobacco cultivators, merchants, small-scale entrepreneurs, and communities residing in regions economically dependent on the production and distribution of tobacco products. Consequently, tobacco control policies must not be exclusively oriented toward consumption restriction without due consideration for the socio-economic groups vulnerable to adverse financial impacts. Nevertheless, the existence of livelihoods tethered to the tobacco industry cannot serve as a justification for compromising the fundamental right to public health. The imperative lies in formulating a just transition framework, encompassing agricultural diversification, workforce upskilling, the strategic allocation of excise tax revenues for alternative initiatives, and the provision of social protection for affected households. Tobacco control policies devoid of social justice strategies risk disproportionately shifting the regulatory burden onto the most economically vulnerable populations (Sahadewo et al., 2024).

At the implementation level, the tobacco issue in Indonesia exposes a substantial dichotomy between legal norms and policy efficacy. Although regulations establishing smoke-free zones have been enacted across various regions, their success is contingent upon consistent monitoring, adequate budgetary support, institutional coordination, effective public communication, and stringent enforcement. Empirical research examining the implementation of smoke-free zones in Medan indicates that compliance with several policy indicators continues to encounter multifaceted obstacles. These findings demonstrate that the success of tobacco control cannot be solely measured by the mere existence of regulatory frameworks; rather, it must be comprehensively evaluated through the lens of institutional compliance, shifts in public behavior, and the mitigation of secondhand smoke exposure. Thus, addressing the tobacco epidemic in Indonesia necessitates a holistic approach that bridges normative legitimacy with tangible policy implementation capacity (Nasution et al., 2022).

Previous studies have extensively explored the nexus between tobacco control and health policy, the position of fatwas within the Indonesian legal framework, and the correlation between human rights and health protection. Nevertheless, the discourse surrounding the tension between religious fatwas and human rights within the legal controversy of smoking necessitates a comprehensive analysis that synthesizes these three dimensions into a unified argumentative framework. The fundamental issue

extends beyond the mere theological classification of smoking as halal, makruh, or haram. Rather, it involves investigating how fatwas attain social legitimacy, defining their jurisdictional limits within a state governed by the rule of law, and determining how tobacco control policies can safeguard public rights without marginalizing religious freedoms or the economic welfare of affected demographics. Furthermore, existing literature on Indonesian tobacco control indicates that intersectoral policy incoherence can impede the realization of public health objectives (Kramer et al., 2023).

In light of these complexities, this study conceptualizes the legal controversy over smoking as an intersection of religious ethics, constitutionalism, and health equity. Fatwas should be contextualized as sources of moral and religious guidance capable of enhancing public awareness, whereas universally enforceable restrictions must derive their legitimacy from positive law enacted through formal state mechanisms. Concurrently, tobacco control policies must prioritize the protection of the right to health, the mitigation of secondhand smoke exposure, and the facilitation of an equitable economic transition. This proposed framework facilitates a more nuanced and balanced comprehension of the interplay between religion, individual liberties, and state obligations in managing the tobacco dilemma in Indonesia (Moeis et al., 2022).

The primary problematic focus of this research lies in the divergent fatwas concerning the legal status of smoking and the public ambiguity regarding the nexus between fatwa authority, individual liberties, and the state's obligation to safeguard public health. A research gap emerges because existing literature on fatwas, human rights, and tobacco control policies is frequently examined in isolation, lacking adequate analysis as an interrelated legal issue. Consequently, this research is crucial for constructing a proportional argumentation concerning the boundaries of fatwa authority and the constitutional responsibilities of the state. The objective of this study is to analyze the discrepancies among these fatwas, the legal standing of fatwas within the Indonesian legal system, the implications of the smoking controversy on the realization of human rights, and to formulate a harmonization model integrating Islamic law, positive law, and the principles of health justice.

2. METHODS

This study employs a qualitative approach utilizing a library research design, wherein literature serves as the primary repository for acquiring, identifying, comprehending, and analyzing information pertinent to the research subject. The selection of this methodological framework is predicated on the nature of the investigated problem, specifically the tension among religious fatwas, human rights, and legal policies regarding smoking in Indonesia. Addressing this issue necessitates a rigorous examination of concepts, principles, theories, doctrines, legal norms, and academic discourses prevalent within the literature of Islamic law, constitutional law, human rights, and public health. The qualitative approach enables the researcher to conduct an in-depth interpretation of the underlying meanings and interconnections among diverse sources, without establishing statistical measurement as the primary objective of the inquiry (Creswell & Creswell, 2023).

The data sources for this study comprise primary and secondary data. Primary data encompass relevant legal and religious documents, including the 1945 Constitution of the Republic of Indonesia, Law Number 17 of 2023 concerning Health, Government Regulation Number 28 of 2024, the 2009 Decision of the III Ijtima of Ulama of the Indonesian Fatwa Commission regarding the Islamic ruling on smoking, and Fatwa Number 6/SM/MTT/III/2010 issued by the Majelis Tarjih and Tajdid of the Muhammadiyah Central Executive. Secondary data consist of academic books, national and international journal articles, research findings, and scientific publications that examine fatwas, Islamic law, the right to health, individual liberty, tobacco control, and social justice. The selection of these materials was predicated on substantive relevance, the transparency of the author's and publisher's identities, the credibility of the issuing journals or institutions, and the online traceability of the documents. The utilization of a diverse array of sources is intended to construct a comprehensive conceptual understanding that does not rely exclusively on a single academic discipline (Silverman, 2024).

Data collection was executed through systematic documentation and literature review. The researcher identified specific keywords pertinent to the research theme, such as fatwa, the Islamic ruling on smoking, human rights, the right to health, individual liberty, Islamic law, maqāṣid al-syarī'ah, smoke-free zones, and tobacco control policies. The literature search was conducted across scientific journal portals, academic publisher websites, university repositories, bibliographic databases, and the official websites of state institutions and religious organizations. Each retrieved document underwent a rigorous evaluation based on the alignment of its title, authorial identity, publication year, abstract, and core discussion with the research questions. Materials lacking a definitive publisher identity, those that could not be independently verified, or those without direct relevance to the primary focus of the study were excluded from forming the basis of argumentation. This methodical procedure was implemented in stages to ensure that the accumulated data align with the research objectives and maintain strict academic accountability (Sugiyono, 2023).

The collected data were evaluated utilizing both content analysis and normative-qualitative analysis. Content analysis was executed through an in-depth examination of the documents to identify primary concepts, categorize arguments, and discern intellectual patterns pertaining to the legal controversies surrounding cigarettes. Concurrently, normative-qualitative analysis was applied to investigate the interrelations among fatwas, statutory regulations, rule of law principles, and human rights instruments. The analytical procedure commenced with data reduction specifically, the extraction of pertinent information followed by the presentation of data via thematic descriptions, and culminated in the formulation of interpretive conclusions. The researcher compared the rationales underpinning the legal determinations within the fatwas, the extent of their binding authority, and the legitimacy of cigarette restrictions under positive law. Furthermore, the analysis incorporated the principles of public interest (kemaslahatan), the protection of life (ḥifẓ al-nafs), liberty, proportionality, and social justice to establish the substantive nexus between Islamic law and human rights (Suteki & Taufani, 2022).

To ascertain the validity of the data, the study employed source triangulation, inter-document cross-examination, and the evaluation of argumentative consistency. Source triangulation was operationalized by comparing official government documents, fatwas from religious organizations, academic monographs, and journal articles addressing analogous issues. Cross-examination was conducted to guarantee that information was not exclusively reliant on secondary citations; rather, it was traced back to its primary documents or original publications whenever feasible. The researcher rigorously verified publication years, author identities, journal titles, volumes, issues, page numbers, and DOIs to mitigate the risk of incorporating inaccurate references. Moreover, the interpretation of a given fatwa was not predicated merely on the conclusions of external parties but critically accounted for the document's intrinsic content and the context of its issuance. The integrity of the analytical findings was preserved by ensuring strict consistency across the research questions, data sources, interpretive methodologies, and the derived conclusions, thereby guaranteeing that the ensuing arguments possess a verifiable academic and normative foundation (Silverman, 2024).

3. FINDINGS AND DISCUSSION

3.1 The Controversy of Smoking Fatwas from the Perspective of Islamic Law and Maqāṣid al-Syarī'ah

A review of the literature indicates that the controversy surrounding the legal ruling on smoking in Indonesia is inextricably linked to divergent methodologies in Islamic jurisprudence when addressing contemporary issues. These discrepancies stem not merely from varying interpretations of religious texts, but also from the manner in which scholars evaluate empirical evidence, assess the severity of harm, interpret social transformations, and formulate considerations of public interest (maṣlaḥah). Concerning the issue of smoking, knowledge regarding its addictive properties, associated disease risks, the hazards of secondhand smoke to others, and the socioeconomic impacts of tobacco consumption constitutes a crucial element in the legal reasoning process. Consequently, the legal assessment of smoking necessitates a profound synthesis between the comprehension of Islamic legal sources and the empirical reality that serves as the object of the ruling. Advancements in medical

knowledge can significantly influence the evaluation of an action, particularly when a practice previously perceived as a normative social habit is subsequently proven to entail severe health consequences (Basyar & Hilal, 2021).

Divergent perspectives within Islamic jurisprudence can be comprehended through the interplay between textual evidence (dalīl), methods of legal deduction (istinbāṭ), and the context in which the law is applied. The formulation of legal rulings for actions not explicitly addressed in religious texts necessitates rigorous reasoning through the principles of Islamic jurisprudence (uṣūl al-fiqh), considerations of public welfare, and the calculation of resulting consequences. In the context of smoking, early scholars during the initial proliferation of tobacco consumption did not universally categorize it as strictly prohibited (ḥarām), as assessments of its harm were inconsistent and medical evidence was not as advanced as it is contemporarily. As medical research increasingly corroborated the correlation between tobacco consumption and various diseases, legal considerations underwent significant evolution. This paradigm shift demonstrates that Islamic law possesses the intellectual flexibility to adapt the application of sharī'ah principles to changing circumstances without abandoning its normative foundations. Ultimately, the divergence in legal rulings regarding smoking can be perceived as an integral aspect of the dynamics of independent reasoning (ijtihād), which strives to reconcile religious texts with social reality and scientific advancement (Nasrullah, 2023).

Within the framework of maqāṣid al-syarī'ah, the protection of human life and health occupies a paramount position. The principle of ḥifẓ al-nafs (preservation of life) establishes the safeguarding of human existence as a primary objective of Islamic law. Consequently, any action that demonstrably poses a severe threat to human safety necessitates critical evaluation through the parameters of harm and benefit. This principle serves as a viable analytical tool for examining the practice of smoking, particularly because its adverse impacts are not confined to the active smoker but also pose potential risks to bystanders through secondhand exposure.

Nevertheless, the application of maqāṣid al-syarī'ah must avoid reductionism; it cannot be assumed that every risk-bearing action automatically warrants an identical legal consequence. Jurisprudential reasoning must systematically consider the magnitude of the risk, the probability of harm, the demographic of the exposed population, the individual's capacity to circumvent the hazard, and the proportional relationship between utility and detriment. Therefore, employing maqāṣid al-syarī'ah within the controversy surrounding smoking demands a comprehensive and nuanced argumentation, rather than a superficial invocation of the life preservation principle (Basyar & Hilal, 2021).

The findings of the study indicate that the 2009 decree of the III Ijtima of the Indonesian Fatwa Commission Ulama and the 2010 Fatwa of the Tarjih and Tajdid Council of the Muhammadiyah Central Executive (No. 6/SM/MTT/III/2010) constitute two distinct products of religious thought that require independent analysis. The decision issued by the MUI Ijtima Ulama is inaccurately construed as a comprehensive prohibition on smoking for all adults. Rather, the ruling accommodates divergent scholarly opinions regarding the permissibility of smoking for adults who do not fall into specific categories, while explicitly declaring the act haram (forbidden) for children, pregnant women, and within public spaces. In contrast, Muhammadiyah categorically classifies smoking as haram through a tarjih approach, which fundamentally weighs health hazards and broader public welfare. This divergence underscores that religious organizations can formulate differing legal conclusions despite relying on the same foundational Islamic sources. Such variation is a critical empirical fact that must be integrated into the analysis of the relationship between fatwas and human rights, as there is no monolithic religious consensus that can be presumed to represent the entirety of Indonesian Muslim thought (Jamil & Al Qurtuby, 2022).

The 2009 decision by the Indonesian Ulema Council (MUI) fundamentally illustrates a precautionary approach to Islamic jurisprudence, determining the legal status of smoking based on the demographic of the subject and the spatial context of the activity. This differentiation signifies that the consequences of the act and the specific circumstances of the involved parties are paramount in the

legal evaluation. Consequently, children and pregnant women are categorized as cohorts necessitating augmented protection due to their pronounced vulnerability to health risks. Furthermore, smoking within public spheres is deemed problematic, given the potential exposure of secondhand smoke to non-consenting individuals. This methodological approach reveals that the discourse on smoking extends beyond the individual's autonomy over their own body, encompassing broader social responsibilities toward others. Nonetheless, this ruling should not be construed as an absolute prohibition (haram) on all smoking activities for adults, as the decision explicitly preserves a margin for jurisprudential disagreement (Jamil & Al Qurtuby, 2022).

Diverging from the paradigm that tolerates differences of opinion, Fatwa No. 6/SM/MTT/III/2010 issued by the Majelis Tarjih and Tajdid of Muhammadiyah unequivocally declares smoking as haram, predicated on the detrimental impacts of tobacco consumption on both human health and the environment. The jurisprudential rationale of this fatwa is anchored in the principles of non-maleficence toward oneself and others, the explicit prohibition against the consumption of deleterious substances, and the overarching obligation to safeguard human welfare. Such deliberations indicate the application of an integrative framework that synthesizes theological reasoning with empirical scientific evidence. The substantiation of data regarding the addictive properties of nicotine and the pathogenic risks of tobacco use supplies an empirical basis for the modernization of legal considerations. Within this theoretical framework, the proscription of smoking is not exclusively designed to govern individual conduct but is strategically oriented toward the mitigation of extensive societal harm. Nevertheless, it remains imperative to delineate the prohibition articulated by a religious organization's fatwa from a statutory ban that exercises general legal bindingness under state jurisdiction (Bader, 2023).

The discourse surrounding the jurisprudential status of smoking demonstrates that the classifications of makruh (discouraged) and haram (prohibited) denote more than mere variances in regulatory severity; they fundamentally impact religious conduct and social reception. For adherents who classify smoking as haram, tobacco consumption is construed as a practice that must be eradicated, given its contradiction with the imperative to preserve life and prevent harm. Conversely, for those adhering to the makruh ruling, abstaining from smoking is still regarded as the optimal choice, though the compulsory nature of this avoidance is less stringent than that of a haram transgression. Such jurisprudential divergences significantly influence how religious institutions articulate moral directives, design educational initiatives, and mobilize social movements. Consequently, discrepancies in fatwas (religious edicts) should not precipitate horizontal conflicts. Instead, they should foster a dialogic space focused on optimizing societal protection while honoring the pluralism inherent in Islamic methodological paradigms (Jamil & Al Qurtuby, 2022).

From the perspective of Islamic ethics, tobacco consumption must also be examined through the interplay of individual volition, physiological dependence, and moral accountability. The liberty to execute an action does not invariably signify absolute autonomy, particularly when such decisions are modulated by addictive substances, environmental coercions, social conditioning, and cyclical dependency. Nicotine induces a reliance that renders the cessation of tobacco consumption a complex endeavor, one that frequently transcends mere personal resolve. This phenomenon elicits profound ethical inquiries regarding the degree to which smoking constitutes an autonomous choice, as opposed to a dependency that diminishes an individual's agential capacity to regulate consumption. Within the framework of Islamic jurisprudence, this reinforces the necessity for a paradigm that transcends punitive moral assessments of smokers, advocating instead for structural support systems for cessation. Ultimately, a theological approach predicated on maslahah (public welfare) must synthesize moral prohibitions and ethical counsel with substantive rehabilitation and addiction recovery frameworks (Bader, 2023).

Analytical findings indicate that maqāṣid al-syarī'ah can serve as a conceptual bridge between fatwa evaluation and the protection of human rights. The preservation of life, lineage, intellect, property, and the environment correlates with public health objectives, the prevention of secondhand

smoke exposure, child protection, and the mitigation of economic burdens associated with tobacco-induced diseases. Nevertheless, the application of maqāṣid must ensure justice for all parties affected by such policies. Tobacco farmers and industry workers should not be morally positioned to bear the entirety of the consequences resulting from tobacco control measures. As integral members of society, they equally possess rights to employment, income, and social protection. Consequently, the preservation of public interest (maṣlaḥah) must not be confined solely to reducing tobacco consumption; it must also encompass the development of economic alternatives for communities whose livelihoods depend on the tobacco sector (Nasrullah, 2023).

Accordingly, research findings on the primary theme demonstrate that the controversy surrounding fatwas on smoking reflects divergences in religious reasoning, which are influenced by methodologies of legal deduction (istinbāṭ), perceptions of harm, and orientations toward public interest. The divergence between the Indonesian Ulema Council (MUI) and Muhammadiyah should not be negated by reducing one perspective to the sole authoritative Islamic stance; rather, it must be comprehended within the specific contexts and argumentations of each respective institution. Concurrently, advancements in health sciences can serve as a critical component in the modernization of Islamic legal reasoning. The integration of religious values and scientific knowledge enables fatwas to play a constructive role in fostering public health awareness. However, the efficacy of this role is fundamentally contingent upon the capacity of religious institutions to articulate educational messages, prevent stigmatization, and support societal groups requiring assistance to overcome nicotine dependence (Basyar & Hilal, 2021).

3.2 The Position of Fatwas within the Indonesian Legal System and the Boundaries of State Authority

Research findings indicate that a primary source of tension surrounding the controversy over smoking regulations stems from an inconsistent comprehension of the distinction between religious authority and the binding force of positive law. Within the Indonesian legal framework, a fatwa constitutes a religious legal opinion formulated through rigorous reasoning by religious institutions or authorities. While its status can wield substantial influence in shaping the attitudes of adherents, religious practices, and internal organizational policies, a fatwa does not inherently occupy an equivalent position to statutes or government regulations within the legislative hierarchy. Consequently, the state cannot impose sanctions on an individual solely on the basis of a fatwa designating an act as forbidden (haram) unless such prohibitions and penalties are explicitly codified in prevailing statutory laws. Grasping this distinction is imperative for preserving the jurisdictional boundaries between religious institutions and the state within a democratic rule of law (Siregar, 2023).

The fundamental character of a fatwa diverges from that of statutory legislation, primarily because its legitimacy is anchored in the scholarly and theological authority of its issuers. State regulations, on the other hand, attain their legal validity through formal legislative procedures mandated by the constitution and national law. Conversely, a fatwa secures its acceptance through the public's confidence in the epistemic capacity, methodological rigor, and institutional integrity of the religious body drafting it. In practice, although a fatwa may function as a formidable directive for specific communities, its influence does not equate to a universally binding mandate applicable to all citizens. Acknowledging this demarcation mitigates misconceptions regarding Indonesian legal pluralism a paradigm in which religious norms, social conventions, and state laws coexist, yet derive from disparate sources of legitimacy and operate through distinct enforcement mechanisms (Pofrizal et al., 2021).

An examination of the position of fatwas within the Indonesian legal framework reveals that the impact of a fatwa can extend beyond its fundamental nature as a religious decree once its substance is integrated into positive law. Such integration may manifest through the enactment of regulations, administrative policies, or alternative legal instruments promulgated by authorized state institutions. Under these circumstances, the prevailing binding authority originates not exclusively from the fatwa itself, but from the state enactments that incorporate or govern the specific substance in accordance

with constitutional jurisdiction. This transition in legal status necessitates scrutiny via legitimate legislative mechanisms, ensuring alignment with the constitution, human rights principles, and established statutory drafting norms. Consequently, the incorporation of fatwas into public policy must not absolve the state of its obligation to critically assess the substance and ramifications of the impending regulations (Achmad & Thamrin, 2023).

Within the legal discourse on smoking, the fatwas issued by the Indonesian Ulema Council (MUI) and Muhammadiyah can function as foundational considerations for cultivating public awareness and developing tobacco control policies. Nevertheless, the state is precluded from automatically adopting a particular fatwa as a universal rationale for imposing legal sanctions upon the broader populace. Should the government seek to restrict smoking in designated areas, curtail cigarette sales to specific age demographics, regulate promotional activities, or mandate health warnings, such constraints must be formalized through valid legal instruments. This imperative arises because public health policies govern a citizenry characterized by heterogeneous religious, ideological, and jurisprudential backgrounds. Therefore, determinations concerning the parameters of such prohibitions must be predicated upon the objective of safeguarding public health, rather than the direct state enforcement of religious doctrines (Tamam, 2021).

Fatwas can also serve a corrective function regarding government policies, particularly when religious institutions determine that a specific policy or social practice contravenes moral principles and the public good. This function represents a prevalent form of civic participation within the public sphere. Religious institutions possess the capacity to articulate recommendations, critiques, or normative perspectives that urge the state to rectify its policies. Nevertheless, such participation must be strictly differentiated from legislative and law enforcement authorities. Within a constitutional state governed by the rule of law, religious institutions do not supersede the legislature, the judiciary, or state administrative bodies. While a fatwa may confer moral legitimacy upon tobacco control measures, any policy that restricts citizens' rights must invariably be predicated on legal justifications that are subject to transparent and democratic scrutiny (Madnur et al., 2023).

Furthermore, the relationship between a fatwa and the state cannot invariably be dichotomized as merely non-binding versus fully binding. Within religious organizations, internal mechanisms exist that establish specific perspectives or resolutions as normative guidelines for their constituents, in accordance with organizational regulations. However, this internal applicability does not inherently transform a fatwa into public law that binds the broader society. Recognizing this distinction in jurisdictional scope is crucial when analyzing the Muhammadiyah Fatwa on smoking. Although a fatwa designating smoking as illicit (haram) functions as a religious directive for Muhammadiyah adherents and shapes institutional practices, the imposition of such mandates on the general populace necessitates a definitive foundation in state law. Consequently, a clear demarcation exists among moral-religious duties, organizational imperatives, and public legal obligations (Achmad & Thamrin, 2023).

An additional issue identified in the literature pertains to the potential alteration of legal perspectives through the mechanisms of ijtihad and positivization. Ijtihad can yield progressive evaluations when societal conditions, empirical evidence, and novel insights necessitate the modernization of legal arguments. Nevertheless, the translation of religious edicts into binding regulatory frameworks does not inherently resolve all complications. Upon the integration of a fatwa into statutory regulations, its core substance inevitably intersects with the principles of legality, legal certainty, civic equality, and the safeguarding of constitutional rights. Consequently, the positivization of a fatwa demands stringent normative scrutiny. Regarding the issue of tobacco consumption, integrating principles such as the preservation of life or the mitigation of harm into health policies is viable; however, the parameters of such restrictions must be articulated in a quantifiable and non-discriminatory manner that is defensible on the grounds of public interest (Madnur et al., 2023).

The Indonesian health law framework illustrates that tobacco control has fundamentally secured a robust statutory foundation. Law Number 17 of 2023 concerning Health governs the regulation of addictive substances, specifically encompassing tobacco products and electronic cigarettes. Articles 149

through 152 delineate provisions concerning production, distribution, consumption, health warnings, and the designation of smoke-free zones, alongside provisions for subsequent implementation via government regulations. Furthermore, Article 151 mandates regional governments to establish and enforce smoke-free zones within their respective jurisdictions. The presence of these stipulations demonstrates that the curtailment of smoking activities in designated areas possesses a definitive positive legal basis that is actionable by the state. Therefore, the legal legitimacy of imposing smoking restrictions in public spheres must be predominantly articulated through the lens of health law and the constitutional obligations of the state, rather than by positioning a fatwa as a surrogate for statutory legislation (Siregar, 2023).

Government Regulation Number 28 of 2024 elucidates the regulatory framework for the control and safeguarding of tobacco products and electronic cigarettes. This encompasses the prohibition of sales to individuals under the age of 21 and pregnant women, the restriction of sales in the proximity of educational institutions and children's recreational areas, as well as specific stipulations concerning advertising and health warnings. These regulatory measures reflect a control paradigm that integrates the protection of vulnerable demographics, the restriction of access, and the management of associated risks. Nevertheless, these provisions should not be interpreted as an absolute prohibition on cigarette consumption for all adults across all environments. The state preserves a clear distinction among restricted consumption, usage within designated smoke-free zones, and the commercialization of tobacco products under specific conditionalities. Such differentiation is imperative to prevent legal analyses from exaggerating the actual scope of the prohibitions delineated by the regulation (Siregar, 2023).

Furthermore, analytical outcomes indicate that cigarette regulation necessitates rigorous synchronization between national and regional tiers of government. Although national regulations establish a comprehensive framework, their execution is fundamentally contingent upon the capacity of regional administrations to formulate derivative legislation, monitor mandated smoke-free environments, and enforce the prevailing stipulations. Investigations into the inconsistencies of tobacco control policies in Indonesia demonstrate that intersectoral coordination and political coherence are pivotal in determining policy efficacy. In instances where the health sector advocates for stringent controls while economic policies and industrial interests pursue divergent trajectories, the overarching objectives of health protection may be significantly compromised. Consequently, the harmonization of tobacco-related legislation extends beyond the mere reconciliation of religious edicts with statutory laws; it necessitates the alignment of comprehensive state policies to preclude the dissemination of contradictory mandates (Kramer et al., 2021).

In this regard, the present study posits that fatwas should be positioned as a source of moral values, ethical recommendations, and a mechanism to enhance community participation in health policy. The government could engage religious organizations in public education initiatives, the formulation of risk communication strategies, and the development of smoking cessation programs. Such engagement has the potential to bolster policy acceptance, particularly among demographics that rely on religious authorities for decision-making. Nevertheless, this involvement must remain inclusive and avoid establishing a singular religious perspective as the exclusive determinant of the rights and obligations of all citizens. The government retains the obligation to articulate the scientific and legal rationale underlying any regulatory restrictions. Through this paradigm, fatwas can facilitate the reinforcement of public health ethics without compromising the principles of pluralism and civic equality (Pofrizal et al., 2021).

3.3 The Right to Health, Individual Liberty, and Social Justice in the Tobacco Controversy

The findings indicate that the right to health serves as the primary nexus between human rights protection and tobacco control policies. This right extends beyond the mere provision of healthcare services upon the onset of illness; it encompasses the state's obligation to cultivate social and environmental conditions conducive to public health. The state is mandated to mitigate preventable

health risks, disseminate accurate information, safeguard vulnerable populations, and ensure that public policies do not subject citizens to involuntary hazardous exposures. Within the context of tobacco, such protections entail the prevention of secondhand smoke exposure in communal spaces, the regulation of access to tobacco products, the dissemination of risk-related information, and the provision of support for smoking cessation. Consequently, the right to health must not be narrowly construed as an individualized entitlement that only becomes applicable following the onset of disease (Arenas Catalán, 2021).

The intersection of tobacco consumption and the right to health illustrates the dualistic nature of this issue. While active smokers encounter health risks associated with their consumption choices and nicotine dependency, non-smokers are susceptible to secondhand smoke exposure in communal areas. This dynamic differentiates smoking from various other personal behaviors, as its adverse externalities can be imposed upon non-consenting individuals. From a human rights standpoint, personal liberties cannot be exercised at the expense of others' entitlement to a healthy environment. Consequently, the implementation of smoke-free zones serves as a regulatory mechanism to reconcile the rights of smokers with those of non-smokers. This imperative for protection is particularly pronounced in settings such as healthcare institutions, educational facilities, recreational areas for children, and other public spaces (Sircar & Bialous, 2021).

Nevertheless, the safeguarding of public health should not serve as a pretext for the infringement of individual liberties. Fundamental human rights frameworks mandate that any curtailment of freedom must possess a definitive legal foundation, pursue a legitimate objective, and be executed with proportionality. Adult smokers retain their status as rights-holders and are entitled to dignified treatment. They must not be subjected to discrimination, marginalization, or the deprivation of healthcare access on the basis of their habits. Rather, public health policies ought to facilitate behavioral modification through the dissemination of information, educational initiatives, cessation support, and risk-proportionate restrictions. Relying predominantly on stigmatization or punitive measures may impede smokers' access to essential assistance and alienate the specific demographic that health interventions are designed to protect (Toebes et al., 2022).

The discourse on individual freedom is intrinsically linked to the concept of autonomy. Autonomy denotes an individual's capacity to make choices predicated on their knowledge and rational deliberation. However, the decision to consume tobacco can be significantly influenced by external variables such as advertising, social environments, peer pressure, the age of initiation, and the inherent addictiveness of nicotine. Under such circumstances, public policy must critically evaluate whether the choice to smoke is genuinely derived from adequate information and meaningful liberty. Children and adolescents exhibit a particularly high degree of vulnerability, as their consumption behaviors are heavily shaped by environmental factors and product accessibility. Consequently, safeguarding younger demographics should be conceptualized as a policy designed to preserve their capacity for autonomy during crucial developmental phases, rather than as a mere restriction that infringes upon individual rights (Schmidt, 2022).

Furthermore, exposure to secondhand smoke engenders profound questions of justice, given that the associated health risks are inequitably distributed. Vulnerable cohorts including children, pregnant women, laborers in inadequately regulated work environments, and residents of densely populated areas often possess constrained agency to evade such exposure. For instance, an individual employed in an enclosed workspace lacking stringent smoke-free policies may have no realistic alternative to distance themselves from tobacco smoke without jeopardizing their employment or livelihood. Such circumstances underscore the necessity for health protection frameworks to account for power asymmetries and the disparate capabilities of individuals to mitigate risk. To be effective, policies must guarantee that workplaces, healthcare facilities, educational institutions, and public spaces deliver substantive protection, transcending mere codified regulations to ensure rigorous enforcement (Martini et al., 2022).

Viewed through the lens of the right to health, the state's obligations extend beyond the mere prohibition or restriction of smoking behaviors. These duties encompass the provision of comprehensible information, access to smoking cessation services, medical and psychosocial interventions, and safeguards for individuals experiencing dependency. Consequently, tobacco control frameworks must transcend restrictive, product-oriented paradigms. Providing cessation support is an integral component of public health accountability, as dependent individuals require targeted interventions to mitigate associated health risks. This methodology is equally critical from an equity standpoint, given that low-income demographics and those with marginal healthcare access frequently confront exacerbated barriers to receiving adequate support. Therefore, the state is obligated to ensure that cessation initiatives are not exclusively available to socioeconomically advantaged populations (Meier et al., 2023).

Furthermore, tobacco control policies must integrate considerations of social justice for laborers and agricultural workers whose livelihoods rely on the tobacco industry. The right to gainful employment and a viable livelihood is foundational to a dignified human existence. Consequently, policy interventions designed to curtail tobacco consumption must be coupled with strategic economic planning that evaluates the socio-economic ramifications for producer households and the labor force. Public health imperatives should not be pursued through mechanisms that inequitably shift the transitional burden onto smallholder farmers and low-wage workers. It is incumbent upon the state to implement crop diversification initiatives, vocational training, transitional assistance, enhanced access to alternative markets, and robust social protection schemes. By adopting these measures, tobacco control policies can successfully reconcile public health objectives with the principles of distributive justice throughout the economic transition process (Budimansyah et al., 2021).

This issue becomes increasingly evident when examining the socio-economic conditions of tobacco farmers. Not all farmers derive substantial profits from the tobacco industry value chain; conversely, a segment of producer households faces the risk of poverty and restricted access to government assistance programs. Consequently, the formulation of consumption control policies must not be predicated on the assumption that all tobacco farmers possess uniform economic capabilities or can rapidly transition to alternative commodities. A viable economic transition necessitates comprehensive data regarding land suitability, access to financing, market demand, distribution networks, and potential alternative revenue streams. Agricultural diversification initiatives lacking robust market planning may introduce unforeseen risks for farmers. Therefore, social justice mandates that affected demographics be integrated into the policy formulation process and provided with adequate support to recalibrate their economic activities (Sahadewo et al., 2024).

Furthermore, health justice necessitates a critical examination of the tobacco industry's influence on the policymaking process. The industry's economic interests can shape public discourse through advertising, promotion, sponsorships, affiliations with political actors, and narratives that associate tobacco with employment and state revenue. Such interests do not invariably manifest as explicit opposition to public health policies; rather, they frequently emerge as rhetorical strategies designed to delay, dilute, or restrict the scope of regulatory frameworks. When industry interests exert a disproportionate influence over policy development, the public is exposed to the risk of substandard regulations that fail to adequately safeguard health. From a human rights perspective, the state bears the obligation to ensure that public policymaking processes are not dominated by specific economic interests, thereby maintaining a paramount commitment to protecting vulnerable and at-risk populations (Romeo-Stuppy et al., 2022).

Within the framework of human rights, approaches to tobacco control must inherently reconcile the protection of the right to health with the observance of other pertinent rights. The implementation of smoking restrictions in designated areas is justifiable provided there is a robust legal foundation and empirical evidence demonstrating the necessity of such measures to prevent secondhand exposure. Furthermore, restricting the sale of tobacco products to minors and vulnerable populations is warranted as a protective mechanism for individuals lacking the adequate capacity or agency to

navigate associated risks. Conversely, regulatory measures that are discriminatory, lack a statutory basis, or are disproportionate necessitate critical reevaluation. This principle precludes the assumption that the right to health invariably supersedes individual liberties. Rather, competing rights must be interpreted harmoniously, taking into account legitimate objectives, societal needs, potential impacts, and the preservation of human dignity (Wiley & Gostin, 2025).

The discourse surrounding tobacco also elucidates that the right to health extends beyond a mere entitlement demanded from the state; it inherently encompasses a dimension of social responsibility. Individuals are obligated to respect the rights of others to a healthy environment, while educational institutions, corporate entities, public facility administrators, and community organizations play a pivotal role in cultivating spaces shielded from tobacco smoke exposure. In this context, moral and religious consciousness can significantly contribute to fostering behaviors that honor collective well-being. Religious edicts (fatwas) that underscore the imperative to avert harm to oneself and others can bolster societal acceptance of smoke-free zone policies. Consequently, religious doctrines and human rights principles are not invariably in diametric opposition. Both paradigms can converge upon the shared objective of preserving life and mitigating harm, notwithstanding their divergent foundational arguments and mechanisms of implementation (Sircar & Bialous, 2021).

The research findings pertaining to the third theme indicate that the tobacco controversy must be conceptualized as an issue of equilibrium among the right to health, individual autonomy, religious freedom, the right to employment, and social justice. The right to health establishes a foundational justification for the state to protect the public from secondhand smoke exposure and to mitigate the risks associated with tobacco consumption. While individual liberties must be respected, they cannot be exercised to the detriment of the rights of others. Concurrently, tobacco workers and farmers require adequate protection and viable economic alternatives. Within this framework, human rights cannot be invoked solely to legitimize the freedom to smoke, nor can they be utilized to justify arbitrary prohibitions. The paramount principle is the safeguarding of human dignity through policies that are legitimate, proportional, inclusive, and equitable (Toebes et al., 2022).

3.4 The Harmonization of Fatwas, Positive Law, and Equitable Tobacco Control Policies

The research findings demonstrate that the harmonization of fatwas and human rights does not necessitate equating their legal status; rather, it requires the appropriate functional positioning of each within the legal framework and broader society. Fatwas serve to provide moral guidance, religious deliberation, and the reinforcement of social awareness. Conversely, positive law functions to establish universally applicable obligations and prohibitions derived from state authority. Human rights operate as a normative standard to evaluate whether state policies respect human dignity, protect vulnerable populations, and impose proportional limitations on freedoms. These three elements can be mutually complementary provided that the state refrains from substituting the legislative process with fatwas, religious institutions abstain from claiming public law enforcement authority, and health policies are continually subjected to constitutional scrutiny. The systematic arrangement of these functions constitutes the foundation for formulating more coherent policies (Pomeranz et al., 2023).

Harmonization can be initiated by acknowledging that tobacco control constitutes a legitimate health policy objective, firmly grounded in constitutional and legislative frameworks. The state bears a fundamental obligation to safeguard the public's right to health, which encompasses the prevention of exposure to secondhand smoke and the regulation of access to products containing addictive substances. Nevertheless, these legitimate objectives must be operationalized through carefully calibrated policies. Any imposed restrictions must demonstrate a rational nexus with the overarching protective goals, be implemented upon clear legal foundations, and avoid imposing disproportionate burdens on the affected stakeholders. A proportionality approach affords the state the necessary latitude to mitigate health risks without unduly compromising the rights and liberties of its citizens. In practical terms, this principle serves as an evaluative framework for assessing smoke-free area

mandates, retail restrictions, advertising regulations, and the enforcement of administrative sanctions (Wiley & Gostin, 2025).

The role of religious edicts (fatwas) within the harmonization process can be actualized through collaborative synergy among governmental bodies, religious organizations, healthcare professionals, educational institutions, and civil society. Utilizing their extensive social networks, religious organizations can facilitate the translation of public health directives into a moral lexicon that resonates more effectively with the populace. Consequently, educational initiatives regarding the hazards of tobacco consumption can be contextualized within the ethical imperatives of preserving life, abstaining from destructive behaviors, and respecting the rights of others. It is imperative, however, that the dissemination of such messaging avoids engendering discrimination against smokers or marginalizing the complexities of addiction cessation. This collaborative paradigm fosters social legitimacy for tobacco control policies, thereby encouraging the public to perceive such regulations not merely as administrative mandates, but as collective endeavors aimed at safeguarding human life. Furthermore, this inter-institutional relationship must rigorously uphold pluralism, ensuring that the integration of religious organizations does not inadvertently silence or eclipse the perspectives of alternative societal groups (Jamil & Al Qurtuby, 2022).

The reinforcement of smoke-free zones represents one of the most evident manifestations of the harmonization among legal, health, and religious principles. The designation of smoke-free zones does not imply the criminalization of all adult tobacco consumption; rather, it constitutes the restriction of smoking activities in locations stipulated by regulatory frameworks. Such policies aim to protect non-smokers, particularly individuals utilizing healthcare facilities, educational institutions, children's playgrounds, places of worship, public transportation, workplaces, and other public spaces. The obligation of local governments to establish and implement smoke-free zones necessitates comprehensive planning, monitoring, signage, public dissemination, and consistent enforcement mechanisms. Consequently, the efficacy of these policies cannot be solely evaluated by the quantity of enacted regional regulations but must be evidenced by tangible improvements in environmental conditions (Artawan et al., 2022).

Research concerning the implementation of smoke-free zones in Banda Aceh indicates that policy execution frequently encounters impediments, including conflicts of interest, inadequate supervision, deficient public communication, and divergent interpretations regarding the spatial boundaries of these zones. These findings suggest that the presence of religious values advocating for health protection does not automatically translate into policy compliance. Public support must be operationalized into transparent governance, a clear division of responsibilities, coordinated monitoring, and consistent regulatory enforcement. In the context of Aceh, the principles of maqāṣid al-syarī'ah and religious teachings can serve as sources of social legitimacy for controlling exposure to tobacco smoke. However, their effectiveness remains contingent upon collaborative efforts among local governments, facility administrators, religious leaders, supervisory officers, and the general public. This demonstrates that normative values and institutional design must operate in tandem (Sufri et al., 2023).

The implementation of policies in Medan demonstrates that adherence to smoke-free zones encounters significant challenges concerning prohibition signage, active smoking, product sales, advertising, the presence of smoke, and the provision of ashtrays in designated smoke-free facilities. These circumstances highlight a substantial discrepancy between formal regulations and everyday behavioral practices. Consequently, policy formulation must be coupled with a robust monitoring and evaluation framework capable of assessing compliance on a regular basis. It is imperative for local governments to define explicit indicators, designate accountable entities, and establish accessible public grievance mechanisms. Furthermore, regulatory oversight must extend to privately managed public facilities, as safeguarding individuals from secondhand smoke should not be confined solely to governmental premises. Through these measures, the fundamental right to health can be actualized into tangible protection for the general populace (Nasution et al., 2022).

Beyond the establishment of smoke-free zones, regulatory harmonization is also required in the management of tobacco product promotion and marketing. Exposure to advertising, promotional campaigns, and sponsorships significantly influences public perception, particularly among younger demographics. While restrictions on promotional activities must be formulated to balance public health imperatives with legal certainty for commercial entities, such regulations must unequivocally ensure that commercial interests do not supersede the protection of children and adolescents. Studies examining the discourse surrounding tobacco advertising in Indonesia reveal that advertising policies are shaped by diverse coalitions employing arguments rooted in health, commercial liberty, economics, and regulatory frameworks. This dynamic suggests that policy development occurs within a contested rather than a neutral environment, thereby underscoring the critical need for transparency and accountability throughout the regulatory formulation process (Murti & Ratriyana, 2022).

Tobacco control necessitates a fiscal strategy that carefully balances public health objectives with economic implications. Excise taxes serve as a crucial mechanism to regulate the affordability of tobacco products while concurrently generating state revenue. Nevertheless, the implementation of such fiscal instruments must account for the distributional impacts on low-income households, the labor force, agricultural workers, and small-scale enterprises. Furthermore, revenues derived from tobacco excise should be strategically allocated to subsidize healthcare initiatives, public education, regulatory oversight, and economic diversification. Investigations into the macroeconomic consequences of tobacco taxation in Indonesia reveal that simulated tax increments can yield potential positive effects on economic output, income generation, and employment absorption, provided that the accrued revenues are reinvested into government expenditure. While these models do not guarantee uniform outcomes for all excise hikes, they underscore the critical role of robust fiscal policy design and the productive allocation of state revenues (Bella et al., 2024).

The reinforcement of economic diversification policies for tobacco farmers constitutes a fundamental component of equitable policy harmonization. The state bears the obligation to ensure that alternative livelihood initiatives extend beyond mere financial assistance or vocational training, ultimately fostering sustainable economic opportunities. Effective diversification demands comprehensive assessments of regional characteristics, viable substitute commodities, market accessibility, soil quality, financial resource availability, and agricultural distribution networks. Although the Tobacco Excise Revenue Sharing Fund can be channeled to underwrite these programs, its execution necessitates stringent inter-agency coordination and guaranteed budgetary allocations. Analyses concerning the utilization of these funds have identified several impediments, including regulatory volatility, inadequate comprehension among farmers, delayed fund disbursements, and discrepancies between supply and demand. Consequently, these findings emphasize that a just transition mandates the formulation of policies grounded in the empirical needs of the producer demographic (Ahsan et al., 2024).

Tobacco control policies must integrate smoking cessation services as a fundamental component of the healthcare system. The cessation of tobacco consumption cannot always be achieved exclusively through the dissemination of information regarding the hazards of smoking, as nicotine dependence encompasses complex biological, psychological, and social dimensions. Therefore, healthcare facilities must provide counseling, continuous support, and interventions tailored to individual needs. This approach aligns with the state's obligation to not merely regulate public behavior, but also to supply the necessary resources for citizens to mitigate health risks. Within the framework of religious ethics, the provision of smoking cessation services can be conceptualized as a facilitative measure to uphold the principles of preserving life and averting harm. Thus, purely punitive policies should be replaced by a comprehensive paradigm that combines regulation, education, support, and clinical care (Meier et al., 2023).

Furthermore, policy harmonization must be achieved through the targeted protection of children and adolescents. This demographic exhibits an elevated susceptibility to the habituation of smoking, driven by peer pressure, familial environments, product accessibility, and exposure to promotional

campaigns. Consequently, implementing policies that restrict sales to legally stipulated age groups, prohibit marketing in the vicinity of educational facilities and recreational areas, and mandate health education within schools constitutes a critical imperative. The safeguarding of minors should not be predicated exclusively upon religious considerations; rather, it must be positioned as a fundamental state obligation to ensure the optimal development and well-being of the younger generation. Empirical research examining tobacco utilization among school-aged adolescents in Indonesia underscores the necessity of evaluating product availability, affordability, and accessibility to comprehensively understand consumption behaviors. Therefore, effective prevention requires the concurrent implementation of access restrictions, educational initiatives, and environmental surveillance (Rosilawati et al., 2024).

In the practice of regulatory harmonization, the government must cultivate public participation mechanisms that accommodate diverse societal interest groups. The formulation of tobacco control policies ought to incorporate healthcare professionals, legal scholars, religious institutions, child advocacy organizations, laborers, tobacco cultivators, industry stakeholders, and populations impacted by secondhand smoke exposure. The objective of such engagement is not to grant veto authority to any singular interest group, but rather to ensure that policy development is informed by comprehensive data and entails an equitable assessment of potential impacts. Public consultation procedures must maintain transparency, disseminate data regarding both health risks and economic ramifications, and preclude the monopolization of the discourse by entities possessing disproportionate political or financial capital. This methodological approach bolsters policy legitimacy, as it enables the citizenry to comprehend the rationale behind regulatory constraints while articulating latent impacts that may be overlooked during the technical drafting phases (Peters et al., 2024).

Regarding the intersection of religious edicts (fatwas) and state policy, it is imperative to foster a communicative framework that prevents theological divergences from impeding public health initiatives. Institutions such as the Indonesian Ulema Council (MUI), Muhammadiyah, and other religious organizations should transparently articulate their respective theological rationales, while the state delineates that regulations concerning smoke-free zones and tobacco control are fundamentally anchored in positive law and the mandate to safeguard public health. Consequently, citizens adhering to divergent religious doctrines can comprehend that spatial smoking restrictions constitute binding legal obligations mandated by state authority, independent of any requirement to adopt a specific theological interpretation. This demarcation is critical for preserving social cohesion, mitigating the instrumentalization of religious edicts as mechanisms of coercion, and reinforcing the paradigm that public law operates on the foundational principle of civic equality (Achmad & Thamrin, 2023).

Drawing upon the comprehensive analysis presented, the proposed harmonization framework is an integrative model that establishes fatwas as the ethico-religious foundation, positive law as the mechanism for regulation and enforcement, and human rights as the benchmark for evaluation and protection. This paradigm necessitates that fatwas be disseminated through educational channels, state policies be underpinned by robust scientific and legal justifications, restrictive measures be proportionately formulated, and affected populations be provided with requisite support. Furthermore, the state is obligated to ensure that tobacco control initiatives are executed via consistent regulatory oversight, empirical data-driven evaluation, smoking cessation provisions, child protection measures, and economic diversification strategies. By adopting this methodology, the inherent friction between religious edicts and human rights need not culminate in irreconcilable conflict; rather, it presents an avenue to cultivate a health governance structure that is fundamentally more equitable, democratic, and deferential to human dignity (Pomeranz et al., 2023).

Furthermore, an examination of the interplay between the right to health and individual liberty dictates that health policy frameworks must distinctly delineate between harm prevention, societal protection, and the governance of personal conduct. The imposition of smoking prohibitions within enclosed or public environments is substantiated by a compelling rationale when the objective is to mitigate the exposure of non-consenting third parties to associated risks. Conversely, regulatory

constraints targeting an individual's private sphere necessitate rigorous scrutiny, predicated upon legal foundations, empirical evidence of harm, explicit policy objectives, and the proportionality of state intervention. While the doctrine of health paternalism elucidates the occasional necessity for state impingement upon individual autonomy, such a paradigm must circumvent the presumption that the state invariably discerns the optimal interests of its populace. Consequently, the safeguarding of public health must be operationalized with due consideration for individual agency, informational accessibility, degrees of dependency, and the potential externalities imposed upon others (Wilkinson, 2021).

Scientific evidence concerning the adverse effects of secondhand smoke exposure increasingly substantiates the rationale for protecting non-smoking populations. Exposure to tobacco smoke extends beyond a mere nuisance; it is intrinsically linked to significant health risks that demand rigorous attention within environmental and healthcare policy frameworks. Given that such exposure frequently occurs in communal spaces, non-smokers often lack agency over the sources of these risks. This dynamic reinforces the argument that the establishment of smoke-free zones constitutes a fundamental protection of human rights, rather than a simple regulation of personal preferences. Although population-level risk assessments must account for the quality of empirical evidence and the degree of scientific certainty, the precautionary principle remains highly pertinent when health hazards can be mitigated through proportional policy interventions. Consequently, the protection of non-smokers is firmly anchored within the framework of the right to a healthy environment (Flor et al., 2024).

Furthermore, the protection of the right to health must be reinforced through the systematic evaluation of tobacco control instruments and their efficacy. Policies that rely exclusively on the enactment of prohibitions are insufficient to demonstrate that a state has fulfilled its protective obligations. A comprehensive evaluation must ascertain whether such policies effectively reduce exposure, restrict youth access to tobacco products, expand the availability of smoking cessation services, and ultimately elevate public health standards. Systematic reviews of tobacco control measures indicate that various population-level interventions, including the implementation of smoke-free policies, are correlated with improvements across multiple health outcomes (Akter et al., 2023).

Within the legal framework, the tobacco controversy highlights a potential friction between the imperative of health protection and legally acknowledged economic interests. The safeguarding of public health rights frequently intersects with the prerogatives of business entities to market their products, manage their brands, and expand their economic operations. Such conflicts cannot be adequately resolved by assuming the inherent supremacy of one right over another devoid of contextual analysis. It is incumbent upon the government to assess whether commercial restrictions are grounded in a solid legal foundation, serve a legitimate health objective, and demonstrate a rational nexus to public protection. Nevertheless, trademark rights and commercial interests must not be invoked to undermine the state's jurisdiction to regulate products that pose significant health risks. Attaining this equilibrium necessitates a regulatory architecture that is lucid, consistent, and strictly proportionate to its intended goals (Berliani et al., 2022).

Furthermore, the intersection of human rights and tobacco control policies in Indonesia must be contextualized within the prevailing institutional and legal-political landscape. Tobacco regulation contends with a complex matrix of interests encompassing the government, the tobacco industry, the labor force, consumers, civil society organizations, and health advocacy coalitions. When the policy formulation process is subjected to disproportionate influence from asymmetrical interests, the resulting regulations risk being compromised, thereby undermining the efficacy of public health protection. Conversely, policies formulated without due consideration of the socio-economic realities of the populace may face substantial resistance and logistical impediments during implementation. Consequently, human rights principles must be operationalized through a policy-making framework that is transparent, participatory, and accountable. This methodological approach ensures that health protection mandates are fulfilled without disregarding economic dimensions, whilst simultaneously

mitigating the disproportionate dominance of specific interest groups in the decision-making continuum (Aryani & Yusa, 2023).

Ultimately, the harmonization of fatwas and human rights must recognize that individuals with nicotine dependence should not be treated merely as subjects of prohibition, but rather as individuals entitled to receive adequate assistance. When policies exclusively emphasize the moral obligation to cease smoking without providing concomitant access to counseling services, therapeutic interventions, and social support, the burden of behavioral modification is disproportionately placed upon the individual. A more equitable paradigm acknowledges the right to smoking cessation support as an integral component of health protection and the preservation of human dignity. Consequently, religious directives that advocate for the cessation of harmful practices must be implemented in tandem with the provision of substantive support systems. The state, religious institutions, and healthcare providers must collaborate to ensure that health protection initiatives do not generate stigmatization, but instead function as mechanisms for societal rehabilitation and empowerment (Dresler, 2023).

4. CONCLUSION

This study concludes that the tension between fatwas and human rights within the discourse on smoking regulations in Indonesia constitutes a multidimensional issue. It intersects with variances in Islamic legal reasoning, the jurisdictional status of fatwas within the national legal framework, individual liberties, public health safeguarding, and social justice. The divergent perspectives held by the Indonesian Ulema Council (MUI) and Muhammadiyah demonstrate the methodological plurality inherent in determining the jurisprudential status of smoking. The resolution of the Third Ijtima of the Indonesian Fatwa Commission Ulema in 2009 accommodated dissenting opinions regarding the permissibility of smoking for adults, whilst strictly prohibiting the practice for minors, pregnant women, and within public spheres. Conversely, the Fatwa of the Muhammadiyah Tarjih and Tajdid Council No. 6/SM/MTT/III/2010 unequivocally classified smoking as haram (prohibited). Such discrepancies reflect the dynamic nature of ijtihad (independent legal reasoning), which is continuously shaped by considerations of public welfare (maslahah) and advancements in medical science. Although fatwas hold significant moral and religious authority within the Islamic community, they do not inherently translate into legally binding legislation applicable to all citizens. Should the substance of a fatwa be intended as a foundation for public policy formulation, the state is obligated to execute legitimate legal mechanisms while strictly adhering to the constitution, the principles of legality, legal certainty, and the protection of human rights. In this context, Indonesian positive law has established a statutory framework for the regulation of tobacco products, specifically through Law Number 17 of 2023 concerning Health and Government Regulation Number 28 of 2024.

The practical implementation of these research findings is oriented toward the reinforcement of smoke-free environments, the enhancement of regulatory oversight, the promotion of health education grounded in both scientific evidence and religious values, the provision of smoking cessation services, the safeguarding of minors and vulnerable populations, and the facilitation of economic diversification for communities reliant on the tobacco sector. The government is strongly advised to engage religious organizations, healthcare professionals, educational institutions, laborers, agricultural workers, and broader civil society in the ongoing processes of policy formulation and evaluation. Ultimately, the harmonization of fatwas, positive law, and human rights can be effectively actualized through a framework of tobacco control governance that is constitutional, proportional, participatory, and equitable.

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