

Reconstructing Islamic Legal Reasoning for Digital Transactions: Bin Bayyah's Maqāṣid al-Mu'āmalāt as a Framework for Resolving Juristic Disagreement

*Yasid^a, Husein Aziz^a, Muhammad Munir^b, Ahmad Musadad^c,
Yunita Wulandari^d

^a Universitas Islam Negeri Sunan Ampel, Surabaya, Indonesia

^b International Islamic University Islamabad, Pakistan

^c Universitas Trunojoyo Madura, Bangkalan, Indonesia

^d Universitas Al Falah As-Sunniah, Jember, Indonesia

*Corresponding author: yasid@uinsa.ac.id

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Abstract

The rapid expansion of digital economic transactions has given birth to legal divergences among scholars due to the contrast of the methodology of uṣūl al-fiqh. Although the contemporary Islamic legal literature is developing rapidly, the existing studies of maqāṣid al-sharī'ah are still generally abstract-generic and focused on the dichotomy of formal legality, thus failing to provide an operational instrument to resolve legal disagreements. In contrast to previous studies that primarily focused on determining the feasibility of digital assets, this article explicitly reconstructs Abdullah bin Bayyah's maqāṣid al-mu'āmalāt theory as an epistemological-operational framework for resolving legal disagreements. Bin Bayyah's thought deserves to be studied independently because it succeeds in integrating maqāṣid specifically into the verification of legal reasons (taḥqīq al-manāṭ al-sharī') and cyber reality (al-fiqh al-wāqī'). Applying a qualitative normative legal research design through conceptual and philosophical approaches, this study examines contemporary fatwas while separating juridical analysis of cryptocurrencies, NFTs, blockchain technology, and smart contracts. The results of the study show conceptually that legal disagreement stems from a rigid formalist-textualist approach that mixes contractual defects (gharar) and reasonable business risks (al-ghurm). Bin Bayyah's framework offers a graded approach that distinguishes between tolerable (gharar yasīr) and excessive (gharar fāḥish) uncertainty based on functional clarity and juridical certainty. Theoretically, this research contributes novelty in the form of an epistemological bridge that aligns textual ideality (naqlī) with empirical technological realities ('aqlī/wāqī'), while providing a methodological foundation for collective ijtihad in responding to future digital financial disruptions.

Keywords: *Maqāṣid al-Mu'āmalāt, Abdullah bin Bayyah, Digital Economy, Contemporary Ijtihād.*

Abstrak

Pesatnya ekspansi transaksi ekonomi digital melahirkan divergensi hukum di kalangan ulama akibat kontrasnya metodologi uṣūl al-fiqh. Meskipun literatur hukum Islam

kontemporer berkembang pesat, kajian *maqāṣid al-sharī'ah* yang ada umumnya masih bersifat abstrak-generik serta terfokus pada dikotomi legalitas formal, sehingga gagal menyediakan instrumen operasional untuk menyelesaikan perbedaan pendapat hukum (*juristic disagreement*). Berbeda dengan studi sebelumnya yang terutama berfokus pada penentuan kelayakan aset digital, artikel ini secara eksplisit merekonstruksi teori *maqāṣid al-mu'āmalāt* karya Abdullah bin Bayyah sebagai kerangka epistemologis-operasional untuk menyelesaikan perbedaan pendapat hukum. Pemikiran Bin Bayyah layak dikaji secara independen karena berhasil mengintegrasikan *maqāṣid* secara spesifik ke dalam verifikasi alasan hukum (*taḥqīq al-manāṭ al-shar'ī*) dan realitas siber (*al-fiqh al-wāqī'ī*). Dengan menerapkan desain penelitian hukum normatif kualitatif melalui pendekatan konseptual dan filosofis, penelitian ini menguji fatwa-fatwa kontemporer seraya memisahkan analisis yuridis atas mata uang kripto, NFT, teknologi *blockchain*, dan *smart contracts*. Hasil penelitian menunjukkan secara konseptual bahwa ketidaksepakatan hukum bersumber dari pendekatan formalis-tekstualis kaku yang mencampurkan antara cacat akad (*gharar*) dan risiko bisnis wajar (*al-ghurm*). Kerangka Bin Bayyah menawarkan pendekatan bergradasi yang membedakan ketidakpastian yang dapat ditoleransi (*gharar yasīr*) dan berlebihan (*gharar fāḥish*) berdasarkan kejelasan fungsional dan kepastian yuridis. Secara teoretis, penelitian ini memberikan kontribusi kebaruan berupa jembatan epistemologis yang menyelaraskan idealita teks (*naqlī*) dengan realitas empiris teknologi (*'aqlī/wāqī'*), sekaligus menyediakan landasan metodologis bagi ijtihad kolektif dalam merespons disrupsi keuangan digital masa depan.

Kata Kunci: Bin Bayyah: *Maqāṣid Al-Mu'āmalāt*: Transaksi Digital: Hukum Ekonomi Islam.

INTRODUCTION

The rapid expansion of digital economic transactions on a global scale has triggered a fundamental transformation in the landscape of modern business activities.¹ The emergence of instruments such as cryptocurrencies, non-fungible tokens (NFTs), smart contracts and blockchain-based assets has not only altered commercial mechanisms but has also created an epistemological disruption within Islamic economic law. This phenomenon gives rise to methodological pluralism in Islamic legal reasoning (*ijtihād*), wherein legal scholars are divided between a formalist-literalist approach that evaluates new instruments

¹ Zoltan J. Acs et al., "The Evolution of the Global Digital Platform Economy: 1971–2021," *Small Business Economics* 57, no. 4 (December 13, 2021): 1629–59, <https://doi.org/10.1007/s11187-021-00561-x>; Muhammad Zafar Yaqub and Abdullah Alsabban, "Industry-4.0-Enabled Digital Transformation: Prospects, Instruments, Challenges, and Implications for Business Strategies," *Sustainability* 15, no. 11 (May 25, 2023): 8553, <https://doi.org/10.3390/su15118553>; Vladimir Matyushok et al., "The Global Economy in Technological Transformation Conditions: A Review of Modern Trends," *Economic Research-Ekonomska Istraživanja* 34, no. 1 (January 1, 2021): 1471–97, <https://doi.org/10.1080/1331677X.2020.1844030>.

based on classical contract structures, and a substantive-contextualist approach that emphasizes the ethical objectives and economic functions of transactions.² The divergence of views among fatwa authorities such as the conservative stance of the Indonesian Council of Ulama (MUI) and PWNU East Java, which prohibit crypto assets on the grounds of *gharar* (uncertainty), *ḍarar* (harm), and *qimār* (gambling),³ contrasting with the progressive stance of PWNU D.I. Yogyakarta, which permits them based on principles of utility and information availability,⁴ is not merely a local institutional dynamic, but rather a reflection of a broader methodological contestation within global Islamic jurisprudence in responding to technological disruption.

Although scholarship on the digital economy and Islamic law continues to grow, existing literature remains largely fragmented and has yet to offer a solutive methodological framework to bridge these conflicting legal opinions. Systematically, prior literature can be mapped into three primary thematic focuses: First, *cryptocurrency legality and digital uncertainty studies*. This strand of research is dominated by formalist evaluations of legal status and risk assessments in electronic commerce. For instance, a Systematic Literature Review (SLR) by Maulana et al. demonstrates that *gharar* and *maisir* serve as primary indicators for Sharia evaluation, yet sharp divergence persists among scholars regarding the acceptable boundaries of uncertainty in emerging technologies such as cryptocurrencies and gamified e-commerce.⁵ Similarly, Asyiqin highlights the imperative for regulatory adaptation and legal clarity to safeguard consumers from Sharia non-compliance

² Tim Redaksi, “Apakah Bitcoin Haram? Perhatikan 3 Ketentuan Hukum MUI,” MUI Sulsel, 2022; Maulana Hasanuddin et al., “Keputusan Ijtima’ Ulama Komisi Fatwa Se-Indonesia VII Tentang Hukum Cryptocurrency” (Jakarta, 2021).

³ Abdul Wahab Ahmad, “Mengapa LBM PWNU Jatim Mengharamkan Cryptocurrency?,” NU Online, 2021; Tim Redaksi, “Kompak Dengan MUI, NU Jatim Tetapkan Bitcoin Cs Haram,” Kumparan Bisnis, 2021; Imam Jazuli, “Cryptocurrency Dan Sikap Progresif LBM NU DIY Artikel Ini Telah Tayang Di Tribunnews.Com Dengan Judul Cryptocurrency Dan Sikap Progresif LBM NU DIY,” <https://www.tribunnews.com/Tribunners/2021/11/23/Cryptocurrency-Dan-Sikap-Progresif-Lbm-Nu-Diy>. Editor,,” Tribunnews, 2021.

⁴ Anfal Bahri, “Studi Putusan Fatwa LBM PWNU D.I. Yogyakarta Dan LBM PWNU Jawa Timur Tentang Cryptocurrency (Telaah Konsep Hifdz Al-Mal)” (Universitas Islam Negeri Sunan Kalijaga, 2023).

⁵ Lutfi Maulana et al., “Digital Uncertainty In Islamic Business Law: A Systematic Literature Review On Gharar And Maisir In Contemporary E-Commerce Transactions,” *Hakam: Jurnal Kajian Hukum Islam Dan Hukum Ekonomi Islam* 10, no. 2 (2026), <https://ejournal.unuja.ac.id/index.php/hakam/article/view/14641>.

risks within fintech and blockchain ecosystems.⁶ Nevertheless, this body of research remains predominantly focused on binary halal-haram determinations or policy recommendations, without offering a normative analytical tool to unravel the underlying roots of jurists' legal reasoning.

Second, *digital fiqh studies*. This group seeks to articulate classical legal instruments within electronic transactions. For example, research by Muhammad et al. analyzes the actualization of the *khiyār al-majlis* doctrine in electronic contracts, concluding that the right to option remains legally valid even when transacting parties are not physically present in the same location.⁷ Although these micro-level studies successfully demonstrate the flexibility of jurisprudence rules, their approach remains casuistic (*furū'īyyah*) and heavily reliant on matching the formal criteria of classical contracts, leaving them less equipped to respond to the structural complexities of decentralized digital assets.

Third, *maqāṣid and fatwa epistemology studies*. This body of literature examines the methodological foundations of contemporary legal rulings. Bashori et al., for example, found that the epistemology of digital transaction fatwas among Sharia authorities has adopted *istiṣlāḥī* arguments and expansive legal maxims oriented toward public interest as the culmination of *maqāṣid al-sharī'ah*.⁸ The broader study of *maqāṣid* is likewise emphasized by Al-Rif'i as an essential instrument to ensure that the application of law secures benefit (*maṣlahah*) and wards off harm (*mafsadah*).⁹ However, the application of *maqāṣid al-sharī'ah* in this literature generally operates at an abstract philosophical level, remaining unoperationalized into specific legal verification (*taḥqīq al-manāṭ*) across complex muamalah transaction structures.

On the other hand, Abdullah bin Bayyah's thought on *Ṣinā'ah al-Fatwā* and *Maqāṣid al-Mu'āmalāt* is acknowledged as one of the most significant epistemological contributions to modern *uṣūl al-fiqh*. Bin

⁶ Istianah Zainal Asyiqin, "Islamic Economic Law in the Digital Age: Navigating Global Challenges and Legal Adaptations," *Media Iuris* 8, no. 1 (February 28, 2025): 95–112, <https://doi.org/10.20473/mi.v8i1.61800>.

⁷ Pauzi Muhammad et al., "Actualizing Islamic Economic Law in the Digital Era: A Study of the Application of Khiyar Al-Majlis in Electronic Contracts," *JURIS (Jurnal Ilmiah Syariah)* 23, no. 2 (July 11, 2024): 205, <https://doi.org/10.31958/juris.v23i2.11573>.

⁸ Akmal Bashori, Mutho'am Mutho'am, and Wan Noor Hazlina Wan Jusoh, "Epistemology of Fatwas on Digital Transaction in Indonesia," *Jurnal Hukum Islam* 21, no. 2 (December 15, 2023): 231–78, https://doi.org/10.28918/jhi_v21i2_02.

⁹ 'Abd al-Salam Al-Rif'i, *Fiqh Al-Maqashid Wa Atharuhu Fi Al-Fikr Al-Nawazili* (al-Maghrib: Afriqiya al-Syarq, 2010).

Bayyah offers a rational-contextual approach that distinguishes between tolerable uncertainty (*gharar yasir*) and excessive uncertainty (*gharar fahish*) through classical jurisprudence precedents.¹⁰ However, Bin Bayyah's theory of *maqāṣid al-mu'āmalāt wa marāṣid al-wāqī'āt* has thus far been examined primarily within the context of minority jurisprudence (*fiqh al-aqalliyyāt*) or general *uṣūl* theory, leaving it underutilized as a qualitative analytical framework to resolve specific debates in contemporary digital economic transactions.

Based on the systematic mapping above, an explicit research gap is identified: no study has specifically integrated Bin Bayyah's *maqāṣid al-mu'āmalāt* theory as an operational-methodological framework to bridge legal reasoning pluralism and resolve juristic disagreements in digital transactions. Most prior studies stop short at normative legal status determinations or generic applications of *maqāṣid*. Therefore, this study establishes its theoretical positioning by situating Abdullah bin Bayyah's theory of *Maqāṣid al-Mu'āmalāt wa Marāṣid al-Wāqī'āt* as an epistemological bridge between normative textual ideals (*naqlī*) and the empirical realities of digital technology (*'aqlī/wāqī'*). Through the concept of legal verification (*taḥqīq al-manāṭ al-shar'ī*), this theory is operationalized to evaluate core components of modern transactions (such as *'aqd*, *'iwaḍ*, *ajal*, and *gharar*).

This article formulates two primary research questions: (1) How does Abdullah bin Bayyah conceptualize the theory of *maqāṣid al-mu'āmalāt* in the context of contemporary Islamic economic law? (2) How can the theory of *maqāṣid al-mu'āmalāt* serve as a methodological framework to resolve juristic disagreements regarding digital economic transactions? We argue that the *maqāṣid al-mu'āmalāt* approach offers a rational, adaptive, and contextual framework without compromising the core principles of Sharia. By shifting the analytical focus from rigid formalist contract structures toward property protection (*ḥifẓ al-māl*), justice (*'adālah*), legal certainty, and public interest (*maṣlahah*), this framework equips Islamic jurists (*fuqahā'*) with a methodological instrument to respond progressively to digital disruptions. Ultimately, this article contributes theoretically to the development of global Islamic

¹⁰ Abdullah bin Bayyah, *Maqāṣid Al-Mu'āmalāt Wa Marāṣid Al-Wāqī'āt* (London: Muassasah al-Furqan, 2010), <https://doi.org/10.56656/100007>; Nikmatul Masruroh, Ahmad Raziqi, and Al furqon Dono Hariyanto, "Halal Lifestyle as A New Lifestyle in Modern Era : Demand Function Theory of Marshall and Ibn Taimiyah," *Economica: Jurnal Ekonomi Islam* 12, no. 2 (2021): 197–220, <https://doi.org/10.21580/economica.2021.12.2.6838>.

economic jurisprudence by offering a way forward from the impasse between literalist and contextualist approaches in contemporary *ijtihād*.

RESEARCH METHOD

This study employs a qualitative normative legal research design to examine juristic disagreements regarding contemporary digital economic transactions, such as cryptocurrencies, NFTs, smart contracts and blockchain. The normative approach is appropriately selected because the primary focus of this inquiry is to evaluate conflicting norms, fatwas, and legal reasoning (*ratio legis*) among religious authorities through doctrinal analysis, rather than testing empirical social behavior.¹¹ This research combines a conceptual approach to reconstruct classical *fiqh al-mu'āmalāt* concepts with a philosophical approach that positions *maqāṣid al-sharī'ah* as a teleological benchmark to assess the substantive impact of transactions (*maṣlaḥah* vs. *mafsadah*).¹² Legal materials were systematically collected through a purposive sampling technique, encompassing primary legal materials (Abdullah bin Bayyah's monograph *Maqāṣid al-Mu'āmalāt wa Marāṣid al-Wāqī'āt* alongside official fatwa documents from MUI, LBM PWNU East Java, and LBM PWNU D.I. Yogyakarta) and secondary legal materials (reputable international academic journals, classical jurisprudence literature, and digital technical and regulatory documents).¹³

The primary analytical framework is operationalized through Abdullah bin Bayyah's theory of *Maqāṣid al-Mu'āmalāt wa Marāṣid al-Wāqī'āt*, which positions Islamic legal reasoning (*ijtihād*) as an epistemological bridge between textual normativity (*naqlī*) and digital reality (*'aqlī/al-fiqh al-wāqī'ī*). The operationalization of this framework is executed through five analytical pillars: (1) examining the realization of specific *maqāṣid* in muamalah, such as property protection (*ḥifẓ al-māl*), justice (*'adālah*), public interest (*maṣlaḥah*), and ease (*taysīr/rifq*); (2) legal verification (*tahqīq al-manāṭ al-shar'ī*) across four transaction components (*al-ma'qūd 'alayh, ribā, shurūṭ al-'uqūd*, and *gharar*); (3)

¹¹ Achmad Irwan Hamzani et al., "Legal Research Method: Theoretical and Implementative Review," *International Journal of Membrane Science and Technology* 10, no. 2 (2023): 3610–19.

¹² Anthony J Onwuegbuzie, R Burke Johnson, and Kathleen Mt Collins, "Call for Mixed Analysis: A Philosophical Framework for Combining Qualitative and Quantitative Approaches," *International Journal of Multiple Research Approaches* 3, no. 2 (August 17, 2009): 114–39, <https://doi.org/10.5172/mra.3.2.114>.

¹³ Rebecca S. Robinson, "Purposive Sampling," in *Encyclopedia of Quality of Life and Well-Being Research* (Cham: Springer International Publishing, 2023), 5645–47, https://doi.org/10.1007/978-3-031-17299-1_2337.

dissecting the structure of *gharar* within the elements of contract (*'aqd*), consideration (*'iwaḍ*), and delivery time (*ajal*); (4) applying a gradational approach to distinguish between prohibited excessive uncertainty (*gharar fāḥish*) and tolerable minimal uncertainty (*gharar yasīr*) that is difficult to avoid (*'usr al-iḥtirāz*) or has been minimized by smart contract automation; and (5) establishing a clear distinction between contractual defects (*gharar*) and legitimate business risks (*al-ghurm*) grounded in the legal maxim *al-ghurm bi al-ghurm*.¹⁴

Data analysis is conducted through a synthesis of teleological interpretation and systemic legal interpretation to harmonize classical jurisprudence maxims with modern technological architectures. The legal reasoning process is systematically executed across five stages: deconstruction and inventory of fatwa *ratio legis*, factual-technical verification of digital asset characteristics (*taḥqīq al-manāṭ*), classification of *gharar* gradations, philosophical-maqasid evaluation, and synthesis to formulate legal conflict resolutions. The validity and transparency of this normative interpretation are ensured through three validation mechanisms: an internal coherence check against *uṣūl al-fiqh* doctrines, legal source triangulation between normative texts and empirical facts, and interdisciplinary peer debriefing to guarantee the legal analytical accuracy regarding blockchain architectures and the digital economy.

RESULT AND DISCUSSION

***Maqāṣid al-Mu'āmalāt* as a Theoretical Perspective of Islamic Economic Law**

In Islamic legal discourse (Sharia), several core principles govern economic transactions and must be upheld, such as justice, mutual consent (*'an tarāḍin*), transparency, and the prohibition of gambling and deception. Conversely, Islamic law strictly forbids transactions involving *gharar* (uncertainty or deception), *qimār* (speculation/gambling), *talā'ub* (manipulation), and similar elements. These principles emphasize that Islamic economic transactions must be grounded in transparency and honesty.¹⁵ This applies equally to digital

¹⁴ bin Bayyah, *Maqāṣid Al-Mu'āmalāt Wa Marāṣid Al-Wāqī'āt*.

¹⁵ Faizi, "Are Cryptocurrencies H Haram? A Critical Analysis toward MUI's Fatwā," *Al-Ihkam: Jurnal Hukum Dan Pranata Sosial* 18, no. 2 (2023): 420–42, <https://doi.org/10.19105/al-lhkam.v18i2.8290> Are; JM Muslimin, Siti Romlah, and Suci Ramadhan, "Economic Justice And The Spirit Of Islamic Economics: A Review Of Joseph E. Stiglitz And Muhammad Yunus' Thoughts On Economic And Law,"

transactions such as cryptocurrencies, non-fungible tokens (NFTs), and other digital assets, all of which must comply with Sharia-based economic principles.¹⁶

The application of these principles aims to ensure that economic transactions facilitate ease and mutual benefit without causing harm (*ḍarar*) or injustice to the transacting parties.¹⁷ The rapid advancement of digital technology is inevitable. However, not all technological products can be engaged with indiscriminately without examining their Sharia compliance. Therefore, digital commerce requires contemporary religious analysis grounded in the philosophy of Islamic legal theory. The objective is to ensure that digital transactions are executed in alignment with the noble objectives of Islamic jurisprudence (Sharia). These noble objectives are none other than facilitating ease, promoting public welfare (*maṣlahah*), and preventing loss and injustice.¹⁸

Given that digital commerce is a relatively recent phenomenon, Islamic legal studies must adopt a philosophical approach to evaluate it. This ensures that scholarly inquiry remains rooted in foundational Sharia principles while maintaining relevance to the contemporary context namely, seeking to secure benefits (*jalb al-manāfiʿ*) and ward off harm (*darʿ al-mafāsid*). *Maqāṣid al-sharīʿah*, as the philosophy of Islamic jurisprudence centered on the ultimate objectives of the law, offers an invaluable theoretical lens for this purpose.¹⁹ Thus, digital transactions are highly relevant to be examined through the theoretical framework of *maqāṣid al-sharīʿah* within the science of *uṣūl al-fiqh*.

Maqāṣid al-sharīʿah is a conceptual framework in Islamic jurisprudence that focuses on the essential purposes behind legal rulings, primarily aimed at achieving public welfare and justice on earth.

Jurnal Syarikah: Jurnal Ekonomi Islam 8, no. 1 (2022): 34–51, <https://doi.org/10.30997/jsei.v8i1.5549>.

¹⁶ Sanuri Sanuri et al., “A Maslahah-Based Review of MUI’s Fatwa on Cryptocurrency: A Cognizant Human Perspective,” *Syariah: Jurnal Hukum Dan Pemikiran* 25, no. 1 (July 30, 2025): 43–66, <https://doi.org/10.18592/sjhp.v25i1.16641>.

¹⁷ Daud A. Mustafa, Hashir A. Abdulsalam, and Jibrail B. Yusuf, “Islamic Economics and the Relevance of Al-Qawāʿid Al-Fiqhiyyah,” *Sage Open* 6, no. 4 (October 1, 2016), <https://doi.org/10.1177/2158244016671374>.

¹⁸ Sayyed Mohamed Muhsin et al., “Can Global Bioethics Benefit From Islamic Jurisprudential Principles?,” *Bioethics* 40, no. 1 (January 27, 2026): 35–44, <https://doi.org/10.1111/bioe.70035>.

¹⁹ Murie Hassan, “Yusuf Al-Qaradawi’s Jurisprudence of Priorities,” *American Journal of Islam and Society* 40, no. 1–2 (July 3, 2023): 77–120, <https://doi.org/10.35632/ajis.v40i1-2.3190>.

Applying this theory in legal studies enables contemporary scholars to formulate rulings that intersect with Sharia objectives, specifically promoting benefits while preventing harm and hardship.²⁰ As a novel form of economic activity, digital transactions are particularly well-suited for examination through this theory. This ensures that legal discourse remains on its proper axis, upholding justice and preventing discord, loss, or injustice.

However, *maqāṣid al-sharī'ah* encompasses a broad spectrum of inquiry that covers all dimensions of religious teachings.²¹ In this regard, Abdullah bin Bayyah, a prominent *uṣūl al-fiqh* scholar from Mauritania, narrowed this overarching concept into *maqāṣid al-mu'āmalāt*, a sub-discipline specifically focused on legal objectives within the realm of muamalah (socio-economic transactions). This is explicitly evident in the title of his monograph, *Maqāṣid al-Mu'āmalāt wa Marāṣid al-Wāqi'āt* (The Objectives of Transactions and Observatories of Social Realities). The book outlines the principles of *maqāṣid al-sharī'ah* as applied specifically to Islamic economic law. His theory serves as a highly effective and significant theoretical framework for examining contemporary muamalah issues.²²

The recent proliferation of digital transactions necessitates rigorous analysis using Islamic economic legal theories such as those offered by Bin Bayyah. New realities and contemporary phenomena cannot be adequately addressed without sophisticated theoretical tools. In this context, *maqāṣid al-mu'āmalāt* gains relevance and significance in directing the Islamic legal response to digital commerce. By utilizing this framework, legal studies not only remain faithful to Sharia principles, but also achieve alignment with technological advancements in the information age.

²⁰ Ali Mutakin, "Teori Maqāshid Al Syarī'ah Dan Hubungannya Dengan Metode Istinbath Hukum," *Kanun: Jurnal Ilmu Hukum* 19, no. 3 (2017): 547–70; Suhaimi, Muhamad Rezi, and Maman Rahman Hakim, "Al-Maqāshid Al-Syarī'ah; Teori Dan Implementasi," *Sahaja: Journal Sharia And Humanities* 2, no. 1 (2023): 153–70, <https://doi.org/10.61159/sahaja.v2i1.13>.

²¹ Paryadi, "Maqashid Syariah: Definisi Dan Pendapat Para Ulama," *Cross-Border* 4, no. 2 (2021): 204.

²² Miftakhul Arif, "Konsep Maqasid Al-Shari'ah Abdullah Bin Bayyah," *El-Faqih: Jurnal Pemikiran Dan Hukum Islam* 6, no. 1 (May 9, 2020): 18–35, <https://doi.org/10.29062/faqih.v6i1.100>; Shofa Robbani, Abu Yasid, and Sanuri Sanuri, "The Revitalization of Maqasid Al-Mu'amalat According to Abdullah Bin Bayyah and Its Implications on Islamic Law," *Research, Society and Development* 10, no. 14 (October 27, 2021), <https://doi.org/10.33448/rsd-v10i14.21295>.

In the context of economic law (*muamalah*), Bin Bayyah acknowledges that gold and silver were the primary currencies in the early Islamic era. Some scholars still maintain that only gold and silver qualify as legitimate currency. However, Bin Bayyah does not dismiss the practical need for more adaptable forms of currency in line with technological developments. Hence, the shift from gold and silver to paper money is not contrary to Sharia, provided that the medium of exchange facilitates ease and avoids fraud or harm.²³

This principle, in the terminology of *maqāṣid al-sharī'ah*, is expressed through the legal maxim “*jalb al-maṣāliḥ wa dar' al-mafāṣid*” (securing benefits and warding off harms). This principle serves as a cornerstone of Islamic legal thought and is vital for maintaining the law's responsiveness to evolving times. Thus, the acceptance of the transformation from conventional paper currency to digital currency is not merely a matter of technological adaptation, but also a realization of *maqāṣid al-sharī'ah* within the contemporary Islamic economic framework.

In truth, this transition is not unprecedented in Islamic monetary history. If the Muslim community once accepted the shift from dinar and dirham (gold and silver) to paper currency, the same logic of *maqāṣid al-mu'āmalāt* demands an open-minded attitude toward the digitalization of money. As long as such transformations adhere to Sharia boundaries, such as maintaining justice, transparency, and avoiding *gharar* and *ribā*, they are not only permissible, but may even be considered acts of *iṣlāḥ* (constructive reform) that promote public welfare.²⁴

Philosophical reasoning of this nature often receives insufficient attention in contemporary religious discourse due to the tendency among certain circles to prioritize a literalist-textual approach to Islamic texts, while disregarding the complexities of evolving social, cultural, and economic contexts. Yet, in authentic Islamic intellectual tradition, Sharia

²³ Nada Rakhima Salsabila, Achmad Diny Hidayatullah, and Nur Syafiqah Hussin, “Bank Syariah Sebagai Alternatif Pembiayaan Untuk Meningkatkan Ekonomi Umat,” *Ekonomi Islam* 14, no. 1 (2023): 96–114, <https://doi.org/10.22236/jei.v14i1.9144>; bin Bayyah, *Maqāṣid Al-Mu'āmalāt Wa Marāṣid Al-Wāqi'āt*.

²⁴ Mohammad Hashim Kamali, “Tajdīd, Iṣlāḥ and Civilisational Renewal in Islam,” *Islam and Civilisational Renewal* 274, no. 1707 (2013): 1–28; Afifhadi Marjohan, Muhammad Safwan Harun, and Ariyanti Mustapha, “Contemporary Debates on Renewal of Islamic Legal Theory (‘Tajdid Uṣul Al-Fiqh’): The Contributions of Aḥmed Al-Raysuni,” *Australian Journal of Islamic Studies* 10, no. 3 (December 1, 2025): 1–28, <https://doi.org/10.55831/ajis.v10i3.853>.

is neither rigid nor stagnant (*jumūd*); rather, it welcomes contextual reasoning to ensure the realization of *maṣlahah* (public interest).²⁵

Within this framework, Bin Bayyah's theory of *maqāṣid al-mu'āmalāt* functions as a critical epistemological tool enabling jurists and scholars to evaluate the legitimacy and validity of various forms of modern economic transactions. This theory not only focuses on the formalistic dimensions of transactions (such as contracts and legal requirements), but also delves into their ethical and philosophical foundations to ensure that Islamic law remains dynamic and responsive to the needs of our time.

In its application to contemporary economic practice, this theory proposes the principle of legal verification (*taḥqīq al-manāṭ al-shar'ī*) across four main elements that determine whether an economic transaction is valid or not from an Islamic perspective.²⁶ These four elements comprise: First, the object of the transaction (*al-ma'qūd 'alayh*), which must be legally valuable (*mutaqawwam*) and not prohibited by Sharia, as fictitious goods or services, ambiguous objects, or those that cannot be legally and functionally delivered may invalidate the transaction.²⁷ Second, the element of usury (*ribā*), wherein all forms of usury, whether *ribā al-faḍl* or *ribā al-nasī'ah*, must be avoided, making it crucial in modern contexts to evaluate interest systems from various angles in conventional banking, digital debt instruments, and online lending platforms.²⁸ Third, the element of hidden uncertainty (*gharar*), referring to transactions that involve ambiguity, high speculation, or asymmetric information between buyer and seller; although blockchain technology offers transparency, it still requires

²⁵ Muhammad Ibtihajuddin et al., "Reconstructing Islamic Legal Epistemology," *Justicia Islamica* 22, no. 2 (December 5, 2025): 461–88, <https://doi.org/10.21154/justicia.v22i2.10927>; Husnul Fatarib et al., "Progressive Legal Reasoning in Contemporary Islamic Legal Reform: Negotiating the Maqāṣid and Hermeneutic Approaches," *JURIS (Jurnal Ilmiah Syariah)* 24, no. 2 (December 17, 2025): 277–94, <https://doi.org/10.31958/juris.v24i2.16123>; Supani et al., "Between Legal Formalism and Welfare Orientation: Maqāṣid-Based Analysis of Waqf Land Exchange Practices in Banyumas," *Al-Istinbath: Jurnal Hukum Islam* 11, no. 1 (April 6, 2026): 113–38, <https://doi.org/10.29240/jhi.v11i1.13941>.

²⁶ bin Bayyah, *Maqāṣid Al-Mu'āmalāt Wa Marāṣid Al-Wāqī'āt*.

²⁷ Wabbah Az-Zuhayli, *Al-Fiqh Al-Islāmī Wa Adillatuh, Jilid 4* (Damaskus: Dar al-Fikr, 2000).

²⁸ M. Umer Chapra, *The Future of Economics: An Islamic Perspective* (Leicester: The Islamic Foundation, 2000).

analysis regarding potential structural *gharar* within the system.²⁹ Fourth, the conditions stated in the contract (*shurūṭ al-ʿuqūd*), wherein additional conditions attached to a contract must conform to Sharia rules, as clauses contradicting *maqāṣid al-sharīʿah* or unfairly harming one party may invalidate the transaction.³⁰

Therefore, the verification of these four elements must not be conducted through a purely textualist approach, but requires an integrative *maqāṣid al-muʿāmalāt* approach. Such an approach ensures that Islamic economic law remains a relevant value system, guiding the community toward justice, transparency, and blessing in their transactions (*muamalah*).

Among these four elements, the phenomenon of *gharar* is a central and highly compelling issue to explore in relation to digital trade transactions. In his theory of *maqāṣid al-muʿāmalāt*, Bin Bayyah states that *gharar* is something whose acquisition is uncertain.³¹ In other words, *gharar* refers to a transaction that involves uncertainty due to hidden elements. Such uncertainty-based transactions are strictly prohibited in Islam, as stated in the hadith narrated by Imam Muslim: “*The Messenger of Allah (peace be upon him) forbade sales conducted by throwing stones (baiʿ al-ḥaṣāh) and sales involving uncertainty (baiʿ al-gharar).*”³²

Therefore, the verification of these four elements must not be conducted through a purely textualist approach, but requires an integrative *maqāṣid al-muʿāmalāt* approach. This involves a synthesis of textual evidence (*naqlī*) and rational reasoning (*ʿaqlī*), while simultaneously considering the social and technological dimensions that underpin today's digital economy. Such an approach ensures that Islamic economic law remains a relevant value system, guiding the Muslim community (*ummah*) toward justice, transparency, and blessing in their transactions (*muamalah*).

The question then arises: do digital transactions involve elements of *gharar*? To answer this, we need to refer to the conceptual analysis of

²⁹ Yusuf Al-Qardawi, *Fiqh Al-Muʿāmalāt Al-Māliyyah Al-Muʿāṣirah* (Kairo: Maktabah Wahbah, 2001).

³⁰ Wahbah Az-Zuhayli, *Nazariyyat Al-ʿUqūd Fī Al-Fiqh Al-Islāmī* (Damaskus: Dār al-Fikr, 1985).

³¹ bin Bayyah, *Maqāṣid Al-Muʿāmalāt Wa Marāṣid Al-Wāqīʿāt*; Masruroh, Raziqi, and Hariyanto, “Halal Lifestyle as A New Lifestyle in Modern Era : Demand Function Theory of Marshall and Ibn Taimiyah.”

³² Abū al-Husain Muslim bin al-Ḥajjāj al-Qusayrī An-Naisābūrī, *Shahīḥ Muslim*, ed. Muḥammad Fuʿād ʿAbd Al-Bāqī (Beirut: Maṭbaʿat ʿĪsā al-Bābī al-Ḥalabī, 1955).

gharar as developed by Bin Bayyah. He divides the elements of *gharar* into three main components:

- a) The contract structure (*'aqd*): the framework and form of the transaction.
- b) The consideration/counter-value (*'iwad*): the exchange value or compensation for the goods or services transacted.
- c) The time (*ajal*): the delivery terms for the goods or compensation.³³

In the context of modern digital trade, including e-commerce platforms, marketplaces, and blockchain technologies, these three components can technically be managed and documented openly. However, a profound legal evaluation reveals that technical-cryptographic transparency on a blockchain network does not automatically equate to legal transparency and certainty (blockchain transparency/legal transparency). Although automated systems such as smart contracts or decentralized ledgers provide real-time audit trails, potential structural *gharar* can still occur within the juridical realm. Code transparency does not automatically guarantee the clarity of legally valid ownership according to Sharia, the certainty of legal liability in the event of system failures (bugs/exploits), or clarity regarding the boundaries of ownership over the underlying physical assets it represents. Therefore, the examination of *gharar* across these three components, the contract structure (*'aqd*), consideration (*'iwad*), and time of delivery (*ajal*), must be critically evaluated by separating technical data transparency from substantive legal certainty as follows.

First, the contract structure (*'aqd*) is conducted openly through a digital agreement between two or more parties, accompanied by clear and traceable verification (audit trails). Automation systems like smart contracts, for example, narrow the scope for manipulation or ambiguity in an agreement.³⁴ Second, the consideration or counter-value (*al-'iwad*) in digital transactions is usually set at a specific nominal value agreed upon by both parties. There is no uncertainty regarding the price of the goods, the payment amount, or the medium of exchange, whether in fiat

³³ Yusri Karmila et al., "Implementation of Sharia Payment Accounting Treatment (RAHN)," *TAMWIL: Jurnal Ekonomi Islam* 10, no. 2 (2024): 94–102, <https://doi.org/10.31958/jtm.v10i2.13120>.

³⁴ Muhammad Syafi'i Antonio, *Bank Syariah: Dari Teori Ke Praktik* (Jakarta: Gema Insani, 2001).

currency or mutually agreed-upon crypto assets.³⁵ Furthermore, escrow systems or digital wallets (e-wallets) are frequently utilized to ensure transaction security for both parties, thereby preventing fraud. Third, regarding the time of delivery (*ajal*), digital systems enable the delivery of goods or services either instantly or on a scheduled basis. For digital assets such as e-books, applications, or cryptocurrencies, delivery can occur in real-time. As for physical goods purchased online, estimated delivery times are typically stated clearly and can be tracked by the buyer.³⁶ This minimizes time-related uncertainty through systemic and technological mechanisms.

Therefore, in a transparent modern digital transaction model, the three elements of *gharar* classified by Bin Bayyah are relatively avoidable. Naturally, this remains contingent upon the system design and the ethics of the transacting parties. If a digital platform is built upon principles of transparency, accountability, and legal certainty, the potential for *gharar* becomes highly minimal and tolerable according to contemporary muamalah jurisprudence. However, if the platform is fraught with speculation, information asymmetry, and lacks clarity regarding the object and asset ownership, then *gharar* becomes dominant, and such a transaction may be deemed invalid under Sharia.³⁷

Alongside the necessity of verifying the element of *gharar* in every digital transaction, Bin Bayyah also notes the existence of concessions (*rukhsah*) for minimal levels of *gharar*. Examples include *gharar* in cases such as building the foundation of a house or buying unpeeled coconuts. Meanwhile, dominant levels of *gharar* remain prohibited, such as the sale of a bird still flying in the air or similar cases.³⁸ In our current era, Bin Bayyah's perspective is highly valuable for application to various digital transactions to determine their legal status.

Referring to the views of Maliki scholars, Bin Bayyah asserts that a minor amount of *gharar* that does not affect transparency does not invalidate a transaction. Conversely, if the *gharar* is truly dominant, the

³⁵ Al-Qardawi, *Fiqh Al-Mu'āmalāt Al-Māliyyah Al-Mu'āṣirah*.

³⁶ Jasser Auda, *Maqasid Al-Shari'ah as Philosophy of Islamic Law A Systems Approach* (London: The International Institute of Islamic Thought, 2008).

³⁷ M. Umer Chapra, *Islam and the Economic Challenge* (Leicester: The Islamic Foundation, 1992).

³⁸ bin Bayyah, *Maqāṣid Al-Mu'āmalāt Wa Marāṣid Al-Wāqī'āt*; Syahrizal and Muhamad Zen, "Analisis Fiqih Muamalah Kontemporer Dalam Transaksi Jual Beli ONLINE," *Jurnal Syariah Dan Ekonomi Islam* 2, no. 2 (2024): 67–78, <https://ejournal.iai-almuslimaceh.ac.id/JSEI/article/view/131/188>.

transaction is considered void and invalid according to *fiqh*. From this explanation, *gharar* is categorized into three levels:

- a) *Gharar* Gharar that is consensually agreed upon (*ijmā'*) by scholars as prohibited due to its dominant nature,
- b) Gharar that is consensually agreed upon as permissible because its amount is minimal and does not interfere with the transparent execution of the transaction.
- c) Gharar that is still debated among jurists (*fuqahā'*) regarding whether its extent is considered dominant or not.³⁹

Minimal *gharar* is tolerated because it is generally difficult to avoid (*'usr al-ihtirāz*) in almost all types of transactions. Examples include the sale of a pregnant animal, where it is unknown whether the fetus is single or twin, male or female, healthy or not. Other examples include buying a sheep that still has milk in its udder without specifying the quantity, or renting the use of water in a public bathhouse without determining the exact cubic meters consumed, and so forth.⁴⁰ Such minimal levels of *gharar* are difficult to avoid, even within digital transactions. Therefore, Islamic jurists tend to grant dispensation and consider the transaction valid.

Nevertheless, even if a digital transaction is free from *gharar*, it still raises numerous other questions. For instance, cases of fraud involving the sale of artwork not owned by the seller, or the plagiarism of artwork registered on a digital platform. Violations of this kind do not pertain to the substance of the transaction itself. Instead, such abuses can occur in any type of transaction, whether manual or digital. Therefore, this form of abuse does not fall under the category of *gharar* that would invalidate a transaction according to Islamic law.

Because such violations are external in nature and can occur in any transaction, they are more accurately described in *fiqh* terminology as *al-ghurm* rather than *al-gharar*.⁴¹ If *gharar* refers to uncertainty that can

³⁹ Fachrozi and Khusnudin, "Harmonizing Social And Religious Values In Sharia Economic Practices," *Al-Infaq: Jurnal Ekonomi Islam* 15, no. 2 (2024): 295–314; bin Bayyah, *Maqāṣid Al-Mu'āmalāt Wa Marāṣid Al-Wāqī'āt*.

⁴⁰ Muhy al-Din Al-Nawawī, *Al-Majmu' Syarh Al-Muhadzdzab*, Jilid 9 (Jeddah: Maktabah al-Irsyad, n.d.).

⁴¹ Faizi, "Are Cryptocurrencies H Haram ? A Critical Analysis toward MUI 's Fatwā"; Afrizul Afrizul, "Pemberdayaan Ekonomi Koperasi Berbasis Syariah Pada Kpri Sman I Kota Solok," *Tamwil : Jurnal Ekonomi Islam* 6, no. 2 (December 2020): 111–26, <https://doi.org/10.31958/jtm.v6i2.2667>.

obstruct the validity of a transaction, then *ghurm* refers to the risk of loss inherent in every transaction as a counterbalance to profit. In other words, in business, profit is sometimes accompanied by certain risks or losses. A legal maxim (*qā'idah fihiyyah*) states: "*Al-ghurm bi al-ghunm*" (loss/liability is commensurate with gain).⁴² Another similar maxim states: "*Al-kharāj bi al-damān*" (profit is earned by bearing the risk).⁴³ A further derivative maxim notes: "*Al-ni'mah bi qadr al-niqmah wa al-niqmah bi qadr al-ni'mah*" (blessings/pleasures come alongside trials, and vice versa).⁴⁴ From these jurisprudential maxims, it can be concluded that business losses are sometimes unavoidable as a form of equilibrium for the profits gained.

Divergence of Islamic Legal Opinions on Digital Transactions

The disagreement regarding the legal status of digital trade transactions has become a hotly debated topic among contemporary Muslim communities. These diverse perspectives reflect the epistemological dynamics of Islamic legal thought in responding to, changing times. The divergence of fatwas among religious institutions, such as the prohibition fatwas from the Indonesian Council of Ulama (MUI) and PWNu East Java contrasted with the fatwa of permissibility from PWNu D.I. Yogyakarta, is essentially not merely a local institutional debate, but a direct consequence of fundamental differences in *uṣūl al-fiqh* methodology and the legal reasoning processes (*ta'līl al-aḥkām*) employed.

Epistemologically, the root of this legal disagreement stems from the contrast between the following two *uṣūl al-fiqh* methodologies:

- a) Formalist-Textualist Methodology (*Uṣūl al-Fiqh al-Shaklī*): The approach utilized by MUI and PWNu East Java tends to adopt rigid legal reasoning through matching the physical criteria of classical contracts (*shurūṭ al-'uqūd*) and applying the maxim of *sadd al-dharā'i'* (blocking the means to harm).⁴⁵ Within this framework, extreme price volatility is

⁴² Muhammad Mushtafa Az-Zuhayli, *Al-Qawa'id Al-Fiqhiyyah Wa Tathbiqatuha Fi Al-Madzahib Al-Arba'ah* (Damaskus: Dar al-Fikr, 2006).

⁴³ Muhammad Bakr Ismail, *Al-Qawa'id Al-Fiqhiyyah Bayn Al-Ashlah Wa Al-Tawjih* (Dar Al Manar, 1996).

⁴⁴ Ibrahim Al-Hariri, *Al-Madkhal Ila Al-Qawa'id Al-Fiqhiyyah Al-Kulliyah* (Amman: Dar 'Ammar, n.d.).

⁴⁵ Abdallāh bin Bayyah, *Ṣinā'ah Al-Fatwā Wa Fiqh Al-Aqalliyyāt* (Jeddah: Dār al-Minhāj, 2007); Abdul Wahab Ahmad, "Mengapa LBM PWNu Jatim Mengharamkan Cryptocurrency?," NU Online, 2021.

directly interpreted as *gharar fāḥish* (excessive uncertainty), potential speculation is equated with *qimār* (gambling), and the absence of physical form or a single issuing authority (*sulṭah*) is deemed a violation of the *thamaniyyah* (monetary nature) requirement of money.⁴⁶ This methodology focuses primarily on the formal shape of the contract (*al-aṣl fī al-'uqūd*) and the mitigation of nominal risks.

- b) Contextual-Maqasid Methodology (*Uṣūl al-Fiqh al-Maqāṣidī*): Conversely, the approach adopted by PWNU D.I. Yogyakarta, aligned with the thought of Bin Bayyah and Yusuf al-Qaradawi, relies on legal cause verification grounded in empirical reality (*tahqīq al-manāṭ al-shar'ī*).⁴⁷ This methodology applies the default principle of muamalah (*al-aṣl fī al-mu'āmalāt al-ibāḥah*), separates legitimate business risk (*al-ghurm*) from contractual defects (*al-gharar*), and measures an asset's value based on its economic function (*māliyyah*) and utility principle (*manfa'ah*).⁴⁸ Rather than being bound by classical textual constraints, this methodology prioritizes the realization of legal objectives (*maqāṣid al-shar'ah*), such as ease (*taysīr*), justice (*'adālah*), and the equitable circulation of wealth (*ar-rawāj*).

Furthermore, a fundamental weakness in contemporary legal debates thus far is the tendency to generalize all digital instruments into a single homogenous category. Juridically (*takyīf fiqhī*), cryptocurrencies, NFTs, blockchain, and smart contracts are four entirely distinct legal objects, each requiring separate legal analysis: *First*, Cryptocurrency is a decentralized digital instrument functioning as an

⁴⁶ Aisyah Kamaliah, "MUI Haramkan Uang Kripto, Ini 2 Alasannya," detikinet, 2001; Redaksi Mirror, "Keputusan Fatwa Hukum Uang Kripto Atau Cryptocurrency," MUI Digital, 2021; Sandhi Nurhartanto, "PWNU Jatim Beberkan Alasan Haramkan Penggunaan Uang Kripto Sumber: Jatimnow.Com," JatimNow.com, 2021.

⁴⁷ Yūsuf Al-Qarḍāwī, *Fiqh Al-Mu'āmalāt Al-Māliyah Al-Mu'āṣirah* (Beirut: Mu'assasat al-Risālah, 2001).

⁴⁸ Monzer Kahf and Tariqullah Khan, *Principles Of Islamic Financing: A Survey* (Jeddah: Islamic Research and Training Institute Islamic Development Bank, 1992); Mohammad Yahdi, Shofwah Syafira, and A Faozan Adhima, "Bitcoin As Islamic Money: A Qawa'id Fiqhiyyah Analysis Of Shariah," *Journal of Islamic Economy and Community Engagement* 7, no. 1 (2026): 26–38, <https://doi.org/10.14421/jiecem.2026.7.1.3044>.

asset commodity (*digital asset*) or an alternative medium of exchange.⁴⁹ The primary legal issue centers on the requirement of *thamaniyyah* (purchasing power/monetary nature) and constructive possession (*qabḍ ḥukmī*). Despite lacking physical form, cryptocurrencies with clear use-cases and voluntary acceptance (*al-ta'āmuh/tarādī*) satisfy the criteria of *māl mutaḳawwam* (legally valuable property) and *qabḍ ḥukmī* through real-time control of private keys within digital wallets.⁵⁰ Numerous studies reveal that price volatility in cryptocurrencies represents market risk (*al-ghurm*), rather than contractual uncertainty (*al-gharar*).⁵¹

Second, However, the context differs significantly in digital transactions involving Non-Fungible Tokens (NFTs). An NFT is a unique digital asset that cannot be exchanged one-to-one with another asset. NFT objects typically take the form of digital representations such as images, video clips, or other digital files. In many cases, the buyer receives only a link or access to data stored on a specific server, rather than the file itself in an absolute sense.⁵² This gives rise to juridical ambiguity regarding the object of the transaction (*al-ma'qūd 'alayh*); NFT ownership frequently does not include copyright or full control over the underlying asset, but merely a claim over token code on a blockchain.⁵³ Consequently, *gharar* in NFTs is structural-juridical due

⁴⁹ Mohammed Sawkat Hossain, “What Do We Know about Cryptocurrency? Past, Present, Future,” *China Finance Review International* 11, no. 4 (2021): 552–72; Dmitry Kochergin, “Crypto-Assets: Economic Nature, Classification and Regulation of Turnover,” *International Organisations Research Journal* 17, no. 3 (2022): 75–130.

⁵⁰ Yahdi, Syafira, and Adhima, “Bitcoin As Islamic Money: A Qawa'id Fiqhiyyah Analysis Of Shariah.”

⁵¹ Dimitrios Koutmos, “Market Risk and Bitcoin Returns,” *Annals of Operations Research* 294, no. 1–2 (November 8, 2020): 453–77, <https://doi.org/10.1007/s10479-019-03255-6>; Yongrong Huang et al., “Evaluating Cryptocurrency Market Risk on the Blockchain: An Empirical Study Using the ARMA-GARCH-VaR Model,” *IEEE Open Journal of the Computer Society* 5 (2024): 83–94, <https://doi.org/10.1109/OJCS.2024.3370603>; Jinan Liu and Apostolos Serletis, “Volatility in the Cryptocurrency Market,” *Open Economies Review* 30, no. 4 (September 24, 2019): 779–811, <https://doi.org/10.1007/s11079-019-09547-5>; Paraskevi Katsiampa, “An Empirical Investigation of Volatility Dynamics in the Cryptocurrency Market,” *Research in International Business and Finance* 50 (December 2019): 322–35, <https://doi.org/10.1016/j.ribaf.2019.06.004>.

⁵² Santika Maya Rindika, Khaorul Ulum Mashuda, and Anna Retnawati, “Non Fungible Token (NFT): Sharia and Accounting Perspectives,” *Jurnal Ilmiah Ekonomi Islam* 10, no. 03 (2024): 3025–35, <https://doi.org/10.29040/jiei.v10i3.15013>.

⁵³ Alfina Rahmatia and Arief Dwi Saputra, “Bridging the Gap between NFT Public Perspectives and Its Islamic Finance Principles,” *Jurnal Ekonomi Dan Keuangan Islam* 11, no. 2 (2025): 227–40,

to information asymmetry and ambiguity in the transferred property rights.

Third, Blockchain technology is not a commercial object bought and sold, but rather a technological architecture in the form of a distributed ledger (*decentralized distributed ledger*).⁵⁴ Under Islamic law, blockchain functions as a means of documentation and verification (*wasā'il*).⁵⁵ Although blockchain consensus mechanisms offer cryptographic data transparency, blockchain must not be automatically assumed to eliminate legal *gharar* (blockchain transparency/legal transparency). Blockchain provides data traceability certainty (audit trails), yet the legal validity of transactions recorded within it still depends on the clarity of contractual terms agreed upon by the parties.

Fourth, A smart contract is not a contract in the traditional *fiqh* sense, but a computer protocol that automatically executes agreement terms when specified conditions are met. The primary legal issue centers on the realization of offer and acceptance (*ījāb wa qabūl*) through lines of code (*code as contract*) and the flexibility of contract stipulations (*shurūṭ al-'uqūd*). Smart contract automation can significantly minimize the potential for manipulation and delivery time uncertainty (*ajal*). However, algorithmic rigidity, which prevents transaction cancellation

<https://doi.org/10.20885/JEKL.vol11.iss2.art5>; Josh Fairfield, *Owned: Property, Privacy, and the New Digital Serfdom*, *Owned: Property, Privacy, and the New Digital Serfdom* (Cambridge University Press, 2017), <https://doi.org/10.1017/9781316671467>; Primavera De Filippi and Aaron Wright, *Blockchain and the Law: The Rule of Code* (Harvard University Press, 2018).

⁵⁴ Claudia Antal et al., “Distributed Ledger Technology Review and Decentralized Applications Development Guidelines,” *Future Internet* 13, no. 3 (February 27, 2021): 62, <https://doi.org/10.3390/fi13030062>; C. Komalavalli, Deepika Saxena, and Chetna Laroiya, “Overview of Blockchain Technology Concepts,” in *Handbook of Research on Blockchain Technology* (Elsevier, 2020), 349–71, <https://doi.org/10.1016/B978-0-12-819816-2.00014-9>; Ali Sunyaev, “Distributed Ledger Technology,” in *Internet Computing* (Cham: Springer Nature Switzerland, 2024), 239–72, https://doi.org/10.1007/978-3-031-61014-1_8.

⁵⁵ Jon Truby, Andrew Dahdal, and Otabek Ismailov, “The Role and Potential of Blockchain Technology in Islamic Finance,” *European Business Law Review* 33, no. Issue 2 (April 1, 2022): 175–92, <https://doi.org/10.54648/EULR2022005>; Anak Agung Gde Agung, Heru Nugroho, and Robbi Hendriyanto, “A Blockchain-Based Halal Certificate Recording and Verification Prototype,” *JOIV: International Journal on Informatics Visualization* 6, no. 2 (June 30, 2022): 364, <https://doi.org/10.30630/joiv.6.2.995>.

during errors or bugs, can generate new forms of injustice if not balanced by legal paternalistic safeguards.⁵⁶

Given the complexity of *gharar* indicators across these contemporary muamalah practices, it is a prudent step to refer to Bin Bayyah's concept of *gharar*. As previously explained, in his theory of *maqāṣid al-mu'āmalāt*, Bin Bayyah asserts that the presence of minimal uncertainty (*gharar yasīr*) that does not compromise contract transparency does not invalidate a transaction. Conversely, when *gharar* is dominant (*gharar fāḥish*), the transaction becomes void in jurisprudence. In other words, not all elements of *gharar* automatically invalidate an economic transaction. A distinction must be drawn between *gharar yasīr* (minor uncertainty) and *gharar fāḥish* (excessive uncertainty).

This concept underscores the importance of a proportional approach in assessing levels of *gharar*, particularly in digital muamalah that benefits from sophisticated electronic verification and documentation systems. However, the evaluation of *gharar* must not be conducted in a generalized manner; rather, it must base *tahqīq al-manāṭ* specifically on the distinct characteristics of each instrument, whether cryptocurrencies, NFTs, blockchain, or smart contracts.

Through this approach, Bin Bayyah not only offers solutions to contemporary *fiqh* issues but also emphasizes the importance of *maqasid-based ijtihad (ijtihād maqāṣidī)*, legal reasoning grounded in *maqāṣid al-sharī'ah* that is responsive to real-world conditions. He encourages Islamic jurists to deeply understand the context of legal problems. Modern economic developments need to be analyzed using relevant theoretical perspectives. In this regard, he proposes a philosophical approach as outlined in his work *Maqāṣid al-Mu'āmalāt wa Marāṣid al-Wāqi'āt*. In that work, he constructs a theoretical

⁵⁶ Mahmood Alaloosh, Govar Majed Ahmad, and Lara Adel Jabbar, "Adapting Iraqi Law to Smart Contracts: A Comparative Analysis Incorporating Islamic Law Principles and Consumer Protection in the Contemporary Digital Era," *MILRev: Metro Islamic Law Review* 5, no. 1 (February 27, 2026): 210–46, <https://doi.org/10.32332/milrev.v5i1.13031>; Haged A. Alotaibi, Bandar A. Alyahya, and Salem R. Alazizi, "Electronic Signatures in Saudi Arabia's Contemporary Digital Era: Examining Authenticity and Attribution Through the Lens of Islamic Law," *MILRev: Metro Islamic Law Review* 5, no. 1 (June 14, 2026): 845–90, <https://doi.org/10.32332/milrev.v5i1.13561>; Muhammad Izzul Syahmi Zulkepli et al., "Automated Transaction of Smart Contract: Technology and Sharia Discourse," *Al-Ahkam* 36, no. 1 (April 30, 2026): 191–228, <https://doi.org/10.21580/ahkam.2026.36.1.26307>.

framework that bridges classical *maqāṣid al-sharī'ah* principles, such as property protection (*hifẓ al-māl*) and ease (*al-taysīr*), with empirical analysis of evolving economic realities.⁵⁷

Consequently, this approach fosters the development of Islamic legal thought that is no longer confined within a rigid legal-formalist framework, but moves toward a more philosophical, functional, and contextual approach. Islamic law must not be viewed merely as a collection of normative rules restricting human action, but as a living ethical system capable of actively and effectively responding to the dynamics of the era. Within this paradigm, Sharia is understood as a moral and social development mechanism aimed at maintaining societal order by upholding the principles of public welfare (*maṣlahah*), justice (*'adālah*), and responsible freedom (*hurriyyah mas'ūliyyah*).⁵⁸

Islamic law is no longer positioned solely as a regulatory tool, but as a comprehensive ethical-normative system capable of providing guidance in facing the challenges of globalization, digital revolution, and rapid social change, without losing its core values. Furthermore, this approach opens the door for institutional and collaborative *ijtihad* (*ijtihād jamā'i*), involving not only *fiqh* scholars but also experts in technology, economics, and sociology. This is essential given that contemporary issues such as digital transactions, fintech, artificial intelligence, and platform-based economic ecosystems require cross-disciplinary understanding.⁵⁹

Based on the principles of *maqāṣid al-mu'āmalāt* and the framework of *al-fiqh al-wāqī'i* (reality-based jurisprudence), Islamic economic law is expected to function more progressively and proportionally, not static and reactive, but dynamic and preventive. In responding to the digital economic transformation, *maqāṣid al-mu'āmalāt* serves as an epistemological guide for testing the validity of modern transactions based on the principles of justice, honesty, transparency, public welfare, and ease.

⁵⁷ Abdullah bin Bayyah, *Maqāṣid Al-Mu'āmalāt Wa Marāṣid Al-Wāqī'āt* (London: Muassasah al-Furqan, 2010), <https://doi.org/10.56656/100007>.

⁵⁸ Mohammad Hashim Kamali, *Principles of Islamic Jurisprudence*, Edisi III (Cambridge: Islamic Texts Society, 2003); Uthman Mehdad Al-Turabi and Jasser Auda, "Toward a Maqāṣid-Based Legal Reform: Systemic Thinking for Social Transformation in the Modern Muslim World," *Indonesian Journal of Islamic Law* 8, no. 2 (December 23, 2025): 210, <https://doi.org/10.35719/fhw10v84>.

⁵⁹ Tariq Ramadan, "Radical-Reform-Islam-Ethics-and-Liberation.Pdf" (Oxford: Oxford University Press, 2009).

Epistemological Originality and Critical Evaluation: Comparing Bin Bayyah's *Maqāṣid* Theory with Al-Shāṭibī, Ibn 'Āshūr, and Jasser Auda

To demonstrate the originality and map the theoretical positioning of Abdullah bin Bayyah's thought in responding to digital economic transactions, the *Maqāṣid al-Mu'āmalāt* framework needs to be critically contrasted with three primary architects of *maqāṣid* theory: Al-Shāṭibī, Ibn 'Āshūr, and Jasser Auda. This cross-generational comparison is essential to show the extent to which Bin Bayyah continues, modifies, or leaps beyond the paradigms of his predecessors in responding to contemporary financial disruptions.

Epistemologically, Al-Shāṭibī in *Al-Muwāfaqāt* grounded *maqāṣid* theory on the textual induction (*istiqrā'*) of sources to formulate the five essential values (*al-darūriyyāt al-khamsah*), including the protection of property (*ḥifẓ al-māl*).⁶⁰ However, Al-Shāṭibī's framework remains macro-level and orthodox; when confronted with legal disputes over crypto or NFTs, Al-Shāṭibī's approach tends to produce deductive generalizations that evaluate digital assets atomistically, questioning whether they meet the physical criteria of wealth (*māl*) or contain *gharar*. Differing from Al-Shāṭibī, Ibn 'Āshūr executed a methodological leap by establishing *maqāṣid* as an independent discipline and formulating specific legal objectives (*maqāṣid khāṣṣah*) for muamalah, namely the circulation of wealth (*ar-rawāj*), transparency (*al-wudūh*), protection (*al-ḥifẓ*), stability (*at-thabāt*), and justice (*al-'adl*).⁶¹ Although Ibn 'Āshūr provided more specific economic criteria, his analysis remains largely descriptive-normative. Ibn 'Āshūr identified the importance of transparency (*al-wudūh*), yet provided no functional instrument to test whether cryptographic transparency on a blockchain network automatically satisfies the threshold of legal transparency.

Meanwhile, Jasser Auda brought *maqāṣid* into the domain of modern legal philosophy through a systems approach that emphasizes cognitive, holistic, and open features.⁶² Auda sharply critiques the

⁶⁰ Abū Ishāq Ibrāhīm bin Mūsā al-Lakhmī Al-Shāṭibī, *Al-Muwāfaqāt Fī Uṣūl Al-Sharī'ah*, cet. ke-1 (Beirut: Dar Al-Kutub Al-ilmīyah, 2004).

⁶¹ Muhammad Thahir Ibnu'Asyur, "Maqasid Al-Syariah Al-Islamiyyah," *Disunting Oleh Muhammad Al-Habib Ibnu Al-Khaujah. Wizārah Al-Awqāf Wa Al-Syu'un Al-Islāmiyyah* 1436 (2015).

⁶² Auda, *Maqasid Al-Shari'ah as Philosophy of Islamic Law A Systems Approach*; Amir, Ahmad Nabil, Tasnim Abdul Rahman, Seyed Mohammad

literalist-atomistic nature of conventional fatwa frameworks in evaluating digital transactions. However, the weakness of Auda's approach lies in its heavily deconstructive-philosophical character; by dismantling partial jurisprudence rules in favor of "systemic goals," Auda frequently loses traction on the technical mechanisms of Islamic jurisprudence. It is precisely at this point of contestation that the originality of Abdullah bin Bayyah's theory emerges. Unlike Auda, who detaches *maqāṣid* from *uṣūl al-fiqh*, Bin Bayyah reweaves *maqāṣid* back into more than thirty internal nodes of the *uṣūl al-fiqh* system to expand legal reasoning and inference (*manzūmat al-ta'līl wa al-istidlāl*).⁶³

Bin Bayyah's originality in responding to digital transactions lies in integrating *maqāṣid al-mu'āmalāt* with reality-based jurisprudence (*al-fiqh al-wāqī'*) through the process of legal verification (*taḥqīq al-manāṭ al-shar'ī*).⁶⁴ While other scholars halt at abstract debates over whether cryptocurrency constitutes *māl* or *gharar*, Bin Bayyah dissects *gharar* into three operational components of a transaction: contract structure (*'aqd*), consideration (*'iwaḍ*), and delivery time (*ajal*). Furthermore, Bin Bayyah offers a gradational approach that draws a strict line between contract-invalidating uncertainty (*gharar fāḥish*) and minimal tolerable uncertainty (*gharar yasīr*) that is difficult to avoid (*'usr al-iḥtirāz*) or has been mitigated by smart contract automation.⁶⁵ This technical differentiation is paired with a clear distinction between contractual defects (*gharar*) and legitimate business risk (*al-ghurm*), ensuring that price volatility or cybercrime are no longer conflated as grounds to indiscriminately prohibit digital instruments.

Notwithstanding its comprehensive and adaptive framework, Bin Bayyah's theory of *Maqāṣid al-Mu'āmalāt* is not free from fundamental methodological limitations. A critical evaluation reveals that Bin Bayyah's project of equating *maqāṣid* directly with *uṣūl al-fiqh* itself leaves a theoretical gap; as critiqued by Beka (2022), the claim that *maqāṣid* is fully integrated into the entire classical *uṣūl* structure remains

Houshisadat, and Musa Adebayo Badrudeen, trans. 2025. "Muhammad Abduh and the Conception of Science: The Framework of Maqasid and Sharia". *Al-Battar: Jurnal Pamungkas Hukum* 2 (2): 175-86. <https://doi.org/10.63142/al-battar.v2i2.167..>

⁶³ Rezart Beka, "Maqāṣid and the Renewal of Islamic Legal Theory in 'Abdullah Bin Bayyah's Discourse," *American Journal of Islam and Society* 38, no. 3-4 (April 22, 2022): 103-45, <https://doi.org/10.35632/ajis.v38i3-4.2987>.

⁶⁴ David H. Warren, *Rivals in the Gulf: Yusuf Al-Qaradawi, Abdullah Bin Bayyah, and the Qatar-UAE Contest Over the Arab Spring and the Gulf Crisis* (London: Routledge, 2021), <https://doi.org/10.4324/9780429299490>.

⁶⁵ bin Bayyah, *Maqāṣid Al-Mu'āmalāt Wa Marāṣid Al-Wāqī'āt*.

methodologically unproven and often creates operational ambiguities in legal decision-making.⁶⁶ In the context of digital transactions, the primary practical limitation of Bin Bayyah's theory is the high degree of qualitative discretion required to determine the threshold between *gharar yasir* and *gharar fahish*. Without measurable quantitative indicators, the criterion of "tolerable uncertainty" risks triggering mufti subjectivity and new legal uncertainties.

Additionally, there is a risk of false equivalence in applying Bin Bayyah's theory to blockchain technology. An overly optimistic assessment can fall into the trap of assuming that technical-cryptographic transparency automatically equates to legal transparency and certainty. In reality, although a smart contract guarantees automated code execution, it does not automatically eliminate external legal risks, such as code vulnerabilities, the absence of a liable entity in decentralized systems (DAOs), or weak consumer protections. These limitations underscore that Bin Bayyah's theory must not be treated as an infallible doctrine or an automatic tool for legitimizing all digital instruments. Instead, this conceptual framework must be critically applied alongside interdisciplinary analysis involving information technology experts, cyber economists, and financial regulators to ensure that legal verification (*tahqiq al-manat*) remains firmly anchored in objective technical realities.

Therefore, determining the threshold between *gharar fahish* and *gharar yasir* in digital transactions (such as cryptocurrencies, non-fungible tokens, blockchain-based assets, smart contracts, etc.) is imperative. This task does not rest in the hands of an individual mufti; rather, it must be formulated through collective *ijtihad* (*ijtihad jamā'i*) grounded in interdisciplinary legal verification (*tahqiq al-manat*).⁶⁷ Under Bin Bayyah's *al-fiqh al-wāqī'i* framework, the authority determining this threshold is a consensus of fatwa bodies or Sharia supervisory boards collaborating directly with technology experts (smart contract auditors and blockchain engineers), cyber economists, and

⁶⁶ Beka, "Maqāṣid and the Renewal of Islamic Legal Theory in 'Abdullah Bin Bayyah's Discourse."

⁶⁷ Md Noorul Qamar, "Collective Ijtihād in Islamic Law: Origins, Methodologies, and Driving Factors," *ATEBE*, no. 14 (December 29, 2025): 50–79, <https://doi.org/10.51575/atebe.1759643>; Jobeda Khanom, Md. Tarekul Islam, and Salma Nasrin, "Who Speaks for Islam? Artificial Intelligence, Fatwa, and Religious Authority in Bangladesh," *Surau Journal of Islamic Studies* 2, no. 2 (July 19, 2026): 172–99, <https://doi.org/10.63919/surau.v2i2.104>.

financial regulators, given that Islamic legal rulings must be established on empirical evidence, science, and social realities.⁶⁸ Through this institutional collaboration, the threshold of *gharar* is measured technically and empirically: if code automation efficiency, audit trail transparency, and clause clarity successfully suppress ambiguity down to industry-standard legitimate business risks (*'usr al-ihtirāz*), the uncertainty is categorized as *gharar yasir*. Conversely, if algorithmic vulnerabilities, lack of legal protections, or information asymmetry still pose potential exploitative harm to any party, the collective authority designates it as *gharar fāhish*.

CONCLUSION

This study conceptually indicates that contemporary legal disagreements surrounding digital economic transactions primarily stem from variations in *uṣūl al-fiqh* methodologies and the tendency among certain fatwa authorities to evaluate modern instruments through a rigid literalist-textual lens. Through doctrinal analysis, this study suggests that Abdullah bin Bayyah's thought on *maqāṣid al-mu'āmalāt* provides a contextual analytical framework to dissect contract elements, particularly in distinguishing between excessive uncertainty (*gharar fāhish*) and tolerable minimal uncertainty (*gharar yasir*). This inquiry indicates that legal verification (*tahqīq al-manāṭ al-shar'i*) enables jurists to evaluate digital assets based on their economic functionality and property protection (*ḥifẓ al-māl*), without being rigidly bound by the formalist physical requirements of classical jurisprudence.

By harmonizing normative text (*naqlī*) with empirical digital realities (*'aqlī/wāqī*), Bin Bayyah's framework offers an adaptive perspective to unravel juridical complexities separately across cryptocurrencies, NFTs, blockchain technology, and smart contracts. This normative analysis conceptually demonstrates that the evolution of exchange media and commercial instruments is not inherently contrary to canonical principles, provided that their systematic mechanisms

⁶⁸ M. Amin Abdullah, "Religion, Science, and Culture: An Integrated, Interconnected Paradigm of Science," *Al-Jami'ah: Journal of Islamic Studies* 52, no. 1 (April 8, 2015): 175, <https://doi.org/10.14421/ajis.2014.521.175-203>; Zelfeni Wimra et al., "The Living Fiqh: Anatomy, Philosophical Formulation, and Scope of Study," *JURIS (Jurnal Ilmiah Syariah)* 22, no. 1 (June 29, 2023): 185, <https://doi.org/10.31958/juris.v22i1.9491>; Ayman Mohammad Bekiroğlu, Mohamed Cherif El Amri, and Mustafa Omar Mohammed, "Empirical Validation of a Framework for Fiqh Analysis of Crypto Assets," *Qualitative Research in Financial Markets*, November 13, 2025, 1–26, <https://doi.org/10.1108/QRFM-03-2025-0075>.

remain oriented toward justice (*‘adālah*), transparency, and public interest (*maṣlahah*). Drawing a clear distinction between contractual defects (*gharar*) and legitimate business risks (*al-ghurm*) suggests a proportional methodological way forward for contemporary Islamic economic jurisprudence.

As an academic implication, the findings of this study suggest the importance of a future research agenda to test the applicability of the *maqāsid al-mu‘āmalāt* framework across the rapidly evolving cyber-financial landscape. Subsequent studies should specifically evaluate the legal implications and ethical governance of Central Bank Digital Currencies (CBDCs), the integration of Artificial Intelligence (AI) in algorithmic finance systems, and Sharia compliance dynamics within the Islamic fintech ecosystem. Future research is expected to formulate operational indicators and quantitative parameters to reinforce legal certainty and consumer protection in the global digital economy.

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