

## THE LEGALITY OF TRANSACTIONS USING CRYPTOCURRENCY IN THE PERSPECTIVE OF THE MUI FATWA: A FIQH-BASED APPROACH

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### ABSTRACT

Cryptocurrency, including popular digital currencies such as Bitcoin and Ethereum, has rapidly gained prominence as a medium of exchange, sparking significant debate over its compatibility with Islamic finance principles. This study analyses the Indonesian Ulama Council (MUI) fatwa on the permissibility of cryptocurrency transactions using a fiqh-based approach. The study employs a qualitative method with a descriptive-analytical approach, utilising literature review and documentation of the MUI's Seventh Ijtima' on Contemporary Fiqh Issues. The analysis focuses on two fiqh principles: *la darar wa la dirar* and *al-dharar yuzal*. The study finds that the MUI fatwa declares cryptocurrency transactions impermissible under Islamic law due to the risks of *dharar* (harm), primarily stemming from high volatility, which introduces *gharar* (uncertainty) in financial dealings. The extreme fluctuations in cryptocurrency values, the anonymity in transactions, and the absence of comprehensive regulation contribute to financial instability and potential harm to individuals, which contradicts the principles of fairness and risk management in Islamic finance. The fatwa aims to protect Muslims from these risks, affirming that Islamic transactions must avoid uncertainty and harm to any party involved. This research provides valuable insights into ongoing discussions about cryptocurrencies within Islamic financial frameworks. It offers recommendations for policymakers and the public on the appropriate use of cryptocurrencies in a manner aligned with Sharia principles.

Keywords: Fatwa; MUI; Cryptocurrency; Bitcoin; Fiqh Principles

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## INTRODUCTION

Cryptocurrency, often called digital or virtual currency, has become one of the most significant technological innovations of the past decade. As the first cryptocurrency introduced in 2009, Bitcoin initiated a new trend in how we perceive and use money. Since then, various other cryptocurrencies such as Ethereum, Ripple, and Litecoin have emerged, each offering distinct features and functions (Putri dkk., 2023). Cryptocurrency operates with blockchain technology, which provides transparency, security, and decentralization, making it appealing to many people worldwide. However, with its growing popularity, various questions and challenges have arisen, particularly regarding its legality and compliance with Islamic law (Fatarib & Sali, 2020).

In Islamic law, every financial transaction must meet specific criteria to be considered valid and halal. Principles such as avoiding *riba* (usury), *gharar* (uncertainty), and *maysir* (gambling) are crucial. An evaluation of cryptocurrency requires an in-depth analysis to ensure its use does not violate these Sharia principles. The Indonesian Ulama Council (MUI), the highest fatwa authority in Indonesia, acknowledges that cryptocurrency can be used for various purposes, including investment and everyday transactions. However, the risks associated with price volatility, the potential for illegal activities, and unclear regulations have become major concerns. Therefore, MUI has issued a fatwa on the use of cryptocurrency. This fatwa guides Muslims on approaching this new technology (Sholeh dkk., 2022).

In evaluating this fatwa, the *fiqh* principles approach provides a comprehensive framework to analyze the MUI fatwa on cryptocurrency. *Fiqh principles* refers to general principles derived from various shariah sources that assist in understanding and applying Islamic law. These principles guide the legal rulings of specific cases (*furu'*) based on

established foundational principles. The *fiqh principles* approach involves applying well-established legal principles to new situations, helping scholars and intellectuals provide practical and applicable solutions (Ahmad, 2017). Two key *fiqh principles* are utilized to analyze the MUI fatwa on cryptocurrency, namely: لا ضرر ولا ضرار (No harm and no reciprocating harm) and الضرر يزال (Harm must be removed). By applying these two principles, the author can evaluate specific aspects of cryptocurrency usage and provide practical and applicable guidance to assist Muslims in adopting this new technology while adhering to Shariah principles.

In the researcher's exploration, writings that discuss cryptocurrency within the context of MUI Fatwa using the approach of *fiqh principles* have not been conducted. Muhammad Yusup (2020) states that Bitcoin cannot be considered sharia-compliant electronic money. From the perspective of *maqashid syariah*, Bitcoin is prohibited (*haram*) because it contains *maysir* (gambling). Gita Dwilaksmi Ramadhani (2022) reinforces this, asserting that the element of *maysir* in cryptocurrency is due to its highly volatile price, which invites speculation that could harm others. Furthermore, there are no underlying assets, the cost cannot be controlled, and its existence is not officially guaranteed, leading to excessive speculation and *haram*. According to Ahmad Zakaria Syahida Amali & Fairuz Sabiq (2023), the legal basis and process in declaring the prohibition of Bitcoin by the Indonesian Ulama Council (MUI) are correct and align with the principles in establishing legal rulings in fatwas.

Muhammad Basywar & Fikri Haekal Amdar (2021) added in the fatwas of NU and Muhammadiyah that NU classifies Bitcoin as a "virtual asset," which can be used as a trading tool and for investment purposes. Similarly, Muhammadiyah states that the legality of cryptocurrency like Bitcoin depends on its usage, whether for good or evil. The prohibition of using

cryptocurrency (Bitcoin) as currency or a medium of exchange in Indonesia, according to Taufik Akbar & Nurul Huda (2022), is based on the explanation in Article 21, Paragraph 2 of the Currency Law.

Based on data obtained by Ihsan Kurniawan, Nuzul Rahmayani, & Jasman Nazar (2023) regarding the influence of the Indonesian Ulama Council (MUI) Fatwa on the legality of Bitcoin as a digital asset in Indonesia, it was found that BAPPEBTI recorded a total of 16.1 million crypto investors by the end of August 2022, indicating that the number of crypto investors had increased by approximately 43.75% from January to August 2022, showing a significant rise. As a result, the influence of MUI's fatwa on the prohibition of Bitcoin as a digital asset has not been very substantial, as the fatwa is personal for individuals who follow Islam.

Additionally, Dwi Hadi Krisdianto & Pande Yogantara S (2023) explained that cryptocurrency investors have received clear legal protection, such as through Minister of Trade Regulation No. 99 of 2018, BAPPEBTI Regulation No. 5 of 2019, BAPPEBTI Regulation No. 3 of 2020, BAPPEBTI Regulation No. 7 of 2021, BAPPEBTI Regulation No. 8 of 2021, and Law No. 11 of 2008 on Information and Electronic Transactions (ITE Law).

This study is a continuation of previous research that placed cryptocurrency as the subject of analysis. The difference between earlier studies is that this research focuses on *fiqh principles* as the analytical framework for examining the MUI fatwa on cryptocurrency.

## MATERIALS AND METHODS

This study employs a qualitative approach with a descriptive-analytical method to analyze the Indonesian Ulama Council (MUI) fatwa regarding cryptocurrency through *fiqh principles*. This approach aims to gain a deeper understanding of the legal foundations used in the MUI fatwa and its implications and

relevance in the modern context. The research methodology consists of several main stages: data collection, data analysis, and interpretation of results.

Data collection in this study was conducted through literature review and documentation. Primary data sources include the Decision of the Ijtima' Ulama Commission Fatwa Se-Indonesia VII on Contemporary Fiqh Issues (Masail Fiqhiyyah Mu'ashirah), which was established at Hotel Sultan Jakarta on 6 Rabi'ul Akhir 1443 AH / November 11, 2021. Secondary data sources include books, journal articles, and cryptocurrency and Islamic law research reports. The study also reviews literature related to *fiqh principles*, including classical and contemporary works in Islamic jurisprudence. Data was collected using purposive sampling, selecting the most relevant and credible sources to answer the research questions.

Data analysis was conducted using a descriptive-analytical approach, describing and analyzing the collected data to evaluate the arguments and legal foundations used in the MUI fatwa. This includes examining Quranic verses, hadiths, and scholarly opinions cited in the fatwa. The collected data was analyzed by identifying and categorizing the *fiqh principles* applicable in the MUI fatwa. Three *fiqh principles* were used to analyze the MUI fatwa on cryptocurrency, namely: *الأمر بمقاصدها* (matters are judged by their objectives), *لا ضرر ولا ضرار* (no harm and no reciprocating harm), and *الضرر يزال* (harm must be removed). Each *kaidah* was analyzed in-depth to understand how MUI applied it in determining the legal status of cryptocurrency. This process involved reviewing literature and critically assessing the arguments used in the MUI fatwa.

## RESULT AND DISCUSSION

### MUI Fatwa on Cryptocurrency in the Decision of Ijtima' Ulama Fatwa Commission Se-Indonesia VII

A fatwa is an essential instrument in Islamic law, serving as a guide for Muslims in their daily lives, based on the principles of Sharia. Etymologically, the word "fatwa" comes from the Arabic root "fata," meaning clarification or decision. In the context of Sharia terminology, a fatwa is a legal opinion issued by a mufti or other religious authority on issues requiring legal clarification (Fathoni, 2013). The mufti, as the issuer of a fatwa, is a scholar with expertise and profound knowledge in Islamic jurisprudence (fiqh). A fatwa is issued based on a request from individuals or groups seeking clarification on specific aspects of their lives that are not explicitly addressed in the primary sources of Islamic law, namely the Qur'an and Hadith.

In Islamic law, a fatwa holds significant importance, providing recommendations and guidance to Muslims. While not legally binding like a court ruling, a fatwa carries strong moral and social influence, often adopted into formal regulations to ensure conformity with Islamic principles (Jamaa, 2018). The primary function of a fatwa is to bridge the gap between sharia texts and the realities of contemporary life, assisting Muslims in performing acts of worship and engaging in social transactions in line with Islamic principles, amid changing times. The authority issuing a fatwa, typically religious institutions such as the Indonesian Ulema Council (MUI), the Fatwa Council of Egypt, or similar bodies in other Muslim countries, is empowered to provide interpretations of Islamic law tailored to the local context (Afrelian & Furqon, 2019). The process of issuing a fatwa involves an in-depth study of Islamic law sources, including the Qur'an, Hadith, Ijma' (consensus of scholars), and Qiyas (analogy). A mufti must consider various aspects, including *maqasid al-shariah* (objectives of Sharia), which

encompass the protection of religion, life, intellect, progeny, and wealth. Furthermore, the mufti must also account for the social, economic, and cultural conditions relevant to the issue at hand (Muzakka, 2018).

In contemporary contexts, fatwa faces new challenges and opportunities in response to advancements in science and technology. Modern issues such as biotechnology, information technology, digital finance, and human rights require a fatwa that offers relevant guidance aligned with the principles of Sharia (Wahid, 2019). One prominent issue is the fatwa on the use of cryptocurrency, which has emerged as a transformative force in how we conduct transactions in recent years. With the rise of blockchain technology, cryptocurrencies such as Bitcoin, Ethereum, and others have gained widespread attention, both among the general public and professionals in finance and technology. Cryptocurrency offers several advantages, including decentralisation, transparency, and faster transactions than traditional financial systems. However, alongside its popularity, several challenges arise, particularly regarding its legality and compatibility with Islamic principles (Arindrajaya, 2022). This issue is especially significant in Indonesia, a country with a Muslim-majority population, where the legality of cryptocurrency in the context of Islamic law requires careful examination.

The blockchain technology underlying cryptocurrency enables direct transactions between users without the involvement of intermediaries such as banks. This makes the transaction process faster, more efficient, and secure. Furthermore, transactions recorded on the blockchain are permanent and transparent, minimizing the likelihood of fraud or data manipulation. However, despite its many advantages, cryptocurrency brings with it various challenges. One of the key challenges is the uncertainty surrounding the legal status of cryptocurrency—whether it should be regarded as Currency or a commodity.

In Indonesia, the status of cryptocurrency as money has been regulated in various laws. According to Law No. 7 of 2011 on Currency, cryptocurrency is not recognized as legal tender. This law states that only the Indonesian Rupiah is recognized as legal Currency for payments within the territory of the Republic of Indonesia. Additionally, Bank Indonesia Regulation No. 18/40/PBI/2016 on Payment Processing Transactions stipulates that transactions using cryptocurrency as a payment tool are prohibited. Thus, the Indonesian government has clearly stated that cryptocurrency cannot be used for payment transactions.

However, while not recognized as money, cryptocurrency is acknowledged as a digital asset or commodity. This is reflected in the Commodity Futures Trading Regulatory Agency (BAPPEBTI) Regulation No. 5 of 2019, which recognizes cryptocurrency as a commodity that can be traded in futures markets. In this regard, cryptocurrency can be traded like any other asset or commodity, but still carries high risks. One of the major risks associated with cryptocurrency is its extreme price volatility, which can cause the value of cryptocurrency to fluctuate drastically in a short period. This high price volatility makes cryptocurrency highly speculative and vulnerable to illegal activities such as money laundering and terrorism financing.

From a Sharia perspective, cryptocurrency presents several issues that need further examination. In Islamic economics, some principles must be adhered to in any financial transaction. Two main principles to consider are prohibiting practices involving *gharar* (uncertainty) and *maysir* (gambling). Cryptocurrency, with its extremely high price fluctuations, is seen as containing an element of *gharar* due to the significant uncertainty in its price. This uncertainty makes cryptocurrency highly speculative, contradicting Sharia principles emphasizing transaction certainty.

Additionally, cryptocurrency is also considered to contain elements of *maysir* or gambling. This is because most cryptocurrency transactions are done with the expectation of gaining profits from rapid price changes. In Islam, such practices are very similar to gambling, where profits are made without genuine effort and are based solely on speculation. Therefore, many scholars argue that trading cryptocurrency does not meet the requirements to be accepted in the Islamic economic system.

The Indonesian Ulama Council (MUI), as the highest fatwa authority in Indonesia, has issued a fatwa regarding the use of cryptocurrency. This fatwa was developed through *ijtihad* and considered various perspectives and potential impacts of cryptocurrency usage. In the fatwa announced during the Ijtima' Ulama Fatwa Commission Se-Indonesia VII, MUI declared that using cryptocurrency as a means of payment is *haram* (forbidden) because it contains elements of *gharar* and *dhurar* (harm). Furthermore, its usage contradicts Law No. 7 of 2011 on Currency, which states that only the Rupiah is legally recognized as a payment tool in Indonesia.

MUI also declared that cryptocurrency, as a commodity or digital asset, is not permissible for trading. This is because cryptocurrency is considered to contain elements of *gharar*, *dhurar*, and *qimar* (gambling), all of which are prohibited in sharia. As a commodity, cryptocurrency does not meet the Sharia requirements for buying and selling transactions, such as having a physical existence, a clear value, a definite quantity, and valid ownership rights.

However, MUI also provided an exception. If cryptocurrency can meet the requirements of *sil'ah* (a legitimate tradable asset) and does not contain elements of *gharar*, *dhurar*, or *qimar*, then trading cryptocurrency can be considered lawful. This exception allows cryptocurrency to be accepted within the Islamic economic

system, as long as it meets clear criteria and does not cause harm or risk to its users.

The development of cryptocurrency in Indonesia, especially within Islamic economics, reflects a dynamic situation that requires further study. Some argue that cryptocurrency still has the potential to be used in the Islamic financial system, especially if strict regulation and supervision are applied. On the other hand, others believe that cryptocurrency's speculative nature and uncertainty are too significant to be accepted within Islamic economics.

In the long term, the Indonesian government should clarify regulations related to cryptocurrency so that the public can understand the risks and benefits involved. Additionally, further discussions regarding cryptocurrency compatibility with Sharia principles should also be conducted, providing clear guidance for Muslims facing this financial technological advancement. As the institution with authority in issuing fatwas, MUI must continue to conduct thorough studies on various aspects of cryptocurrency, including its impact on the Islamic economy as a whole.

### **Islamic Legal Analysis of Cryptocurrency through Fiqh Principles**

Cryptocurrency, or digital currency, has become one of the most discussed topics in recent years. This technology offers various advantages such as transparency, decentralization, and efficiency. However, cryptocurrency also presents multiple risks and challenges behind these benefits, especially in law and ethics. The Indonesian Ulama Council (MUI), as the highest religious authority in Indonesia, has expressed its views on the use of cryptocurrency through its fatwa. For several reasons, MUI has declared that cryptocurrency is not valid as a medium of exchange or a legitimate commodity in transactions.

From an Islamic legal perspective, analyzing cryptocurrency using established fiqh principles is essential. Among the

relevant principles are *la darar wa la dirar* (no harm and no reciprocating harm) and *al-dharar yuzal* (harm must be eliminated). These principles emphasize avoiding and eliminating harm in every transaction and interaction. Cryptocurrency has three primary characteristics: high volatility, anonymity, and a lack of regulation. High volatility means the value of cryptocurrency can fluctuate drastically in a short period. Anonymity allows users to conduct transactions without being identified, and the lack of regulation means users have no sufficient legal protection in case of disputes or fraud. These characteristics bring about risks that can harm both users and society.

#### **1. Volatility, *Gharar*, and Value Instability in Cryptocurrency: A Comprehensive Analysis**

Volatility is widely regarded as one of the most significant risks associated with cryptocurrencies, particularly Bitcoin and Ethereum, due to the extreme fluctuations in their value over short periods. The cryptocurrency markets, influenced by factors such as market speculation, investor sentiment, regulatory news, technological advancements, and general market trends, are prone to unpredictable price movements. This volatility is clearly evident in the dramatic rise and fall of cryptocurrency values, posing substantial financial risks for investors. For instance, Bitcoin's price surged to nearly \$20,000 in late 2017, only to plummet to around \$3,000 the following year (Warsito, 2020). This volatility is not limited to Bitcoin; other cryptocurrencies, like Ethereum, experience similar dramatic price fluctuations, though the timing and magnitude may vary. Such extreme fluctuations not only increase the risks for investors but also create uncertainty in the broader market, as digital asset values can swing unpredictably from day to day or even hour to hour.

The unpredictable nature of cryptocurrency values can result in catastrophic financial consequences,

especially for investors who are not fully aware of the risks involved. Many individuals, particularly those new to cryptocurrency, may be drawn to the promise of high returns, only to face rapid losses when markets become volatile. For example, Bitcoin's price fell by approximately 70% in 2018 from its peak, leaving investors who bought in at the market's height with significant losses (Kuznetsov, 2018). These sharp declines create a considerable financial burden for individuals who may not have anticipated such drastic changes or who lack the necessary risk tolerance to weather these fluctuations. Furthermore, the volatility of cryptocurrencies is exacerbated by the lack of comprehensive regulation, which often enables market manipulation and speculative trading practices. Without proper oversight, market participants can artificially inflate or deflate cryptocurrency prices, making the market even more susceptible to unpredictable, extreme swings.

In the context of Islamic finance and sharia law, this volatility raises serious concerns. The principle *la darar wa la dirar*, which translates to "do not harm and do not cause harm," plays a crucial role in evaluating the compatibility of cryptocurrencies with Islamic finance. This principle emphasizes that financial transactions must not result in harm to any party involved. When it comes to cryptocurrencies, extreme volatility in value can be seen as a form of harm (*dharar*) because it exposes investors to substantial and unexpected financial losses. The unpredictability of digital currencies often forces investors to take on excessive risk, undermining the fundamental principles of fairness and stability that underpin Islamic financial transactions. In Islamic law, engaging in transactions that expose individuals to substantial financial harm, such as trading in highly volatile markets, contradicts the essence of sharia, which seeks to protect individuals from undue financial risks.

Moreover, the principle *al-dharar yuzal*, which means "harm must be removed,"—further highlights the need to address volatility in cryptocurrency markets. According to this principle, Islamic law mandates that risks and uncertainties in financial transactions should be minimized or eliminated. If a transaction involves excessive risk that could cause financial harm, it must be mitigated or avoided. In the case of cryptocurrencies, the extreme volatility presents a significant risk to individuals' wealth. As such, in accordance with *al-dharar yuzal*, financial instruments like cryptocurrencies should be approached with caution or regulated to reduce the harm they cause. From an Islamic finance perspective, the speculative nature of cryptocurrency markets makes them incompatible with core Islamic values of fairness and justice, as investors are exposed to unpredictable financial losses that they cannot control or predict.

In addition to volatility, *gharar*—or uncertainty—plays a significant role in exacerbating the risks associated with cryptocurrency. *Gharar* refers to the ambiguity in a transaction in which the parties cannot be certain of the terms, conditions, or outcomes. In the context of cryptocurrency, *gharar* arises from several factors (Maleha dkk., 2022). First, the high volatility of cryptocurrency prices makes it difficult to accurately predict an asset's value. This price uncertainty creates *gharar* because the parties involved in the transaction cannot be certain about the value they will receive or pay. The unpredictability of cryptocurrency prices, driven by speculative trading, technological developments, and market sentiment, creates a significant risk of unexpected losses, which contradicts the Islamic financial principle of ensuring clear terms in a transaction.

Second, the lack of regulation and oversight in the cryptocurrency market further adds an element of ambiguity. An unregulated market is more susceptible to manipulation and fraudulent activities,

which can harm investors and market participants. The absence of formal rules leaves cryptocurrency markets vulnerable to manipulation, where large players, or whales, can artificially inflate or deflate prices, leading to unfair practices and resulting in a loss of confidence among smaller investors. Moreover, the anonymity and lack of transparency in many cryptocurrency exchanges make it difficult to track and address fraudulent activities. This lack of transparency contributes to *gharar* in the market, leaving users unsure of the integrity of their transactions and the security of their investments.

Third, the technical mechanisms behind cryptocurrency, such as blockchain algorithms and complex cryptography, are often not fully understood by ordinary users, adding a layer of uncertainty. The complexity of the technology underlying cryptocurrencies makes it difficult for average users to assess the risks of using and trading digital assets. For instance, many cryptocurrency users may not fully understand how blockchain operates or the potential vulnerabilities in the system, such as hacking risks or the possibility of losing access to their wallets. This lack of understanding creates significant uncertainty, as users may unknowingly expose themselves to greater risks when engaging in cryptocurrency transactions.

In practice, addressing both *volatility* and *gharar* in cryptocurrency markets requires robust regulatory frameworks, greater transparency, and enhanced investor education. One possible solution would be the introduction of stricter regulations governing cryptocurrency markets. Such regulation could reduce speculative behaviours and help align price movements with underlying economic factors rather than being driven by short-term speculation or market manipulation. Moreover, increasing transparency in the operations of cryptocurrency exchanges and enhancing oversight of trading practices could help stabilize the market and reduce its inherent volatility.

Furthermore, promoting more responsible investment practices, such as comprehensive risk assessments and investor education, could help individuals make more informed decisions and reduce the likelihood of significant losses due to price fluctuations or misunderstandings about the technology.

However, addressing the volatility and *gharar* in cryptocurrency markets is not solely a regulatory issue—it also requires a broader shift in how digital currencies are perceived and used. While cryptocurrency offers substantial benefits, including lower transaction costs and the potential for financial inclusion among the unbanked, its inherent volatility and the uncertainty surrounding its value and technology make it difficult to align with the core principles of financial stability and fairness at the heart of Islamic finance. Therefore, from an Islamic financial perspective, until measures are taken to address both volatility and *gharar* and mitigate the associated risks, the use of cryptocurrency as a primary financial tool remains problematic. The volatility in cryptocurrency markets, combined with the uncertainty surrounding its usage, presents a significant challenge in aligning digital currencies with the principles of sharia, particularly the imperatives to protect individuals from financial harm and ensure equitable, just transactions.

## 2. Anonymity, Security, and *Dharar* in Cryptocurrency: Implications for Islamic Finance

Cryptocurrency has emerged as a revolutionary financial tool, offering various advantages such as decentralisation, privacy, and fast transactions. However, as cryptocurrencies like Bitcoin and Ethereum become more mainstream, they also present significant risks that can be categorised as *dharar* (harm) within the context of Islamic finance. Islamic finance principles, especially those derived from *Sharia*, aim to protect individuals and society from harm, making it essential to evaluate these risks

through the lens of *fiqh* (Islamic jurisprudence).

One of the key concerns with cryptocurrency is its high security risks, which fall directly under the realm of *dharar*. Despite blockchain technology being touted as secure, vulnerabilities in the management and storage of private keys expose cryptocurrency users to significant risks. Cryptocurrencies rely on private keys to access and manage digital wallets, but if these keys are lost or stolen, users may permanently lose access to their funds. In 2018, cybercriminals exploited weaknesses in cryptocurrency exchanges and wallets to steal over \$1.7 billion worth of digital assets. This type of risk exemplifies *dharar* because it leads to substantial financial losses for users, which undermines the core principle of *Sharia*—to ensure that transactions do not cause harm to any party involved. The loss of funds due to inadequate security mechanisms or poor management of private keys, especially when users are unaware of how to protect their assets, creates an environment ripe for financial harm (Mafruhah dkk., 2022).

In addition to security concerns, the volatility of the cryptocurrency market adds another layer of *dharar*. Cryptocurrencies are notorious for their extreme price fluctuations, which can change drastically within a short period. For example, Bitcoin's price skyrocketed to nearly \$20,000 in late 2017, only to crash to around \$3,000 the following year. Such dramatic swings expose investors to the risk of significant financial losses, particularly those who are unprepared or lack the necessary understanding of the market's speculative nature. The inability to predict and control cryptocurrency price movements leads to *gharar*—uncertainty or ambiguity—in cryptocurrency trading. *Gharar* arises because, in these markets, investors cannot be certain about the value they will receive from their investment or the value of the cryptocurrency at the time of the transaction. The unpredictability of these assets directly conflicts with the

Islamic financial principle of ensuring certainty in financial transactions, which is a cornerstone of *Sharia*.

In line with Islamic principles, the risks associated with cryptocurrency's volatility can also be seen as a violation of the principle *al-dharar yuzal*—"harm must be removed." According to this principle, *Sharia* mandates that any financial activity or asset that exposes individuals to significant harm or uncertainty should be minimised or avoided. In the case of cryptocurrencies, extreme price fluctuations present clear harm to investors, as it is impossible to predict or control these changes. Therefore, *Sharia* encourages either regulating these assets or avoiding such high-risk financial activities altogether to prevent unnecessary harm.

Furthermore, cryptocurrency's high degree of anonymity also exacerbates *dharar*. While anonymity is one of the features that attracts users to cryptocurrencies, it also facilitates illegal activities such as money laundering, terrorism financing, and fraud. The pseudonymous nature of cryptocurrency transactions makes it difficult for law enforcement agencies to track and trace the movement of illicit funds. Individuals or groups can exploit cryptocurrency's anonymity to conduct illegal transactions without the risk of being identified. This lack of transparency in financial transactions harms society by enabling activities that can undermine public safety and financial integrity. The anonymity feature, while protecting the privacy of legitimate users, makes it easier for criminals to engage in illicit financial activities without detection, thereby amplifying societal harm.

Using cryptocurrency for illegal purposes, such as money laundering or terrorism financing, directly contributes to *dharar* within the Islamic financial framework. *Sharia* emphasises protecting the community from activities that harm broader society, such as criminal acts that undermine trust and stability.

Cryptocurrency's anonymity feature inadvertently facilitates such crimes, which result in harm to the community at large by allowing illicit transactions to occur outside the scrutiny of regulatory bodies. In Islamic law, activities that cause harm to society, especially those that endanger the peace, safety, and well-being of the community, are strictly prohibited (Shabrina, 2020).

Finally, the overall lack of regulation in cryptocurrency markets further intensifies the *dharar* associated with these digital assets. The absence of clear and consistent regulatory oversight allows market participants to engage in speculative trading, market manipulation, and fraudulent activities. In an unregulated market, large players can artificially inflate or deflate prices, creating an unstable environment prone to exploitation. This lack of regulation, coupled with the anonymity and volatility of cryptocurrencies, increases the potential for harm to individuals and society. The absence of a clear legal framework leaves investors vulnerable to scams and fraud, and without regulatory protection, the chances of recovering losses due to such illicit activities are slim.

In Islamic finance, *dharar* refers to any harm arising from financial transactions, and in the case of cryptocurrency, several dimensions of harm are clearly evident. First, the high security risks associated with cryptocurrency use—such as hacking, theft, and the loss of private keys—can result in significant financial losses for users who are not fully educated in safeguarding their assets. The complexity and lack of understanding surrounding cryptocurrency security mechanisms contribute to these risks. Second, the instability of the cryptocurrency market, with its extreme price fluctuations, makes cryptocurrency trading highly speculative, leading to financial losses for unprepared investors. Third, the anonymity provided by cryptocurrencies enables illegal activities, thereby contributing to *dharar* by allowing money laundering and terrorism financing

to occur without detection (Thommandru & Chakka, 2022). These factors collectively elevate the risks associated with cryptocurrency, making it a source of significant financial and social harm.

Addressing *dharar* in cryptocurrency requires a multi-faceted approach. The first step is to introduce clear, robust regulations that govern cryptocurrency markets. Regulation would mitigate speculative trading and market manipulation, while also protecting consumers from fraudulent activities. Second, cryptocurrency exchanges must adopt stronger security measures, such as two-factor authentication, multi-signature wallets, and cold storage for funds. These measures would reduce the risk of hacking and theft. Third, individuals must be educated on securing their digital assets by implementing best cybersecurity practices. Lastly, governments and regulatory bodies must collaborate with industry stakeholders to develop a legal framework that not only regulates cryptocurrency trading but also protects investors and maintains the integrity of the financial system. By addressing the *dharar* caused by cryptocurrency volatility, security risks, and illicit use, these steps would help ensure that cryptocurrencies are used responsibly while minimising harm to individuals and society.

### 3. *Qimar* in Cryptocurrency: A Detailed Analysis through Fiqh Principles

In Islamic finance, *qimar* refers to speculative transactions where one party risks their financial assets without sufficient certainty of the outcome. This speculative nature is evident in cryptocurrency markets, where prices fluctuate wildly, and traders often engage in transactions driven by the hope of quick profits rather than rational analysis of the asset's underlying value. Cryptocurrencies such as Bitcoin and Ethereum are subject to extreme volatility, which makes them more like gambling than a secure financial investment. The risk of dramatic price swings often leads investors to act on

speculative trends, much like gambling, where the outcome is uncertain, and profit or loss is primarily determined by chance rather than effort or informed decision-making (Ulya & Pambudi, 2024)..

The core principle of *la darar wa la dirar*—"do not harm and do not cause harm"—is a fundamental concept in Islamic finance and is directly applicable to the issue of *qimar* in cryptocurrency. This principle emphasizes that financial transactions must not result in harm to any of the parties involved. In the case of cryptocurrency, its speculative nature leads to *dharar* (harm) by exposing individuals to significant financial losses. As seen in the past, prices of cryptocurrencies have experienced extreme volatility, with Bitcoin's price dropping from nearly \$20,000 in late 2017 to around \$3,000 the following year. This unpredictability creates a situation in which individuals lose significant sums of money based on mere speculation rather than rational analysis of the asset's value or potential. Such uncertainty and financial risk violate the principle of *la darar wa la dirar* because sudden, unpredictable losses often harm the parties involved in cryptocurrency transactions. These risks do not align with the values of fairness and stability that are central to Islamic finance.

Additionally, the speculative behaviour associated with cryptocurrency mirrors the characteristics of *qimar*. Investors in the cryptocurrency market often make decisions based on hype or the expectation of quick returns, similar to gambling, where individuals wager money without fully understanding the risks. For example, many cryptocurrency investors are driven by the hope of capitalizing on rapid price increases without fully understanding the complex technological and economic factors that shape these price movements. This type of behaviour is a direct manifestation of *qimar*, as individuals gamble with their money based on uncertain market movements rather than engage in productive, value-creating

transactions. In Islamic finance, *qimar* is strictly prohibited because it leads to unfair outcomes in which one party gains at the expense of another, with no real value exchanged.

The second principle of *fiqh*—*al-darar yuzal* (harm must be removed)—further emphasises the need to address *qimar* in cryptocurrency. According to this principle, any form of harm that could result from a financial transaction should be minimised or eliminated. In the context of cryptocurrency, the speculative nature of trading and the extreme price fluctuations present clear and significant harm to investors. The possibility of large financial losses for individuals, especially those without the technical knowledge or understanding of market dynamics, underscores the urgency of addressing these risks. From an Islamic perspective, allowing *qimar* to persist in cryptocurrency markets violates the principle of *al-darar yuzal* because it fails to mitigate the inherent financial risks that are inherent in speculative activities. Therefore, addressing the risks associated with *qimar* in cryptocurrency involves protecting investors from harm by minimizing uncertainty and volatility.

One approach to mitigating the risks of *qimar* in cryptocurrency is through regulation. Cryptocurrency markets are currently largely unregulated, leading to speculative behaviours that increase the potential for harm. Regulations can help reduce speculative trading by imposing stricter rules on the types of transactions permitted, ensuring that investors are protected and transparency is maintained. For instance, regulating initial coin offerings (ICOs) and ensuring that cryptocurrency exchanges provide clear and accurate information about the assets being traded can reduce the opportunities for manipulation and fraud, which are often central to the speculative nature of *qimar* in the market. Regulatory measures can also ensure that all market participants are held accountable for their actions, reducing the

potential for unfair advantage and protecting consumers from excessive risk (Tauda dkk., 2023).

In addition to regulatory measures, education plays a crucial role in addressing *qimar* in the cryptocurrency industry. Many individuals are drawn to cryptocurrency markets without fully understanding the risks involved. Financial literacy programs that explain the speculative nature of cryptocurrency and the potential for significant financial loss could help mitigate the prevalence of *qimar* in the market. Investors should be encouraged to conduct thorough research and assess the risks involved before making any investment decisions. Moreover, greater transparency in the cryptocurrency market—such as clearer trading guidelines and better reporting from exchanges—could help reduce the speculative nature of cryptocurrencies and align them more closely with the principles of fairness and stability in Islamic finance.

Furthermore, the issue of *qimar* in cryptocurrency is also linked to the emergence of cryptocurrency derivatives, such as futures contracts, which allow traders to speculate on the future price of digital currencies. These instruments, while offering profit opportunities, also increase market speculation, heightening the potential for large financial losses. The introduction of leveraged trading in cryptocurrency markets further amplifies this risk, as traders can take on positions they cannot afford, leading to potentially catastrophic financial consequences. This speculative nature of derivatives is another example of *qimar*, as it encourages risk-taking without the possibility of fair or predictable outcomes.

In addition to speculative trading and derivatives, the rise of fraudulent cryptocurrency projects and scams also embodies the essence of *qimar*. Many projects have promised high returns on investment, luring unsuspecting investors who are often driven by the desire for quick profits. However, these projects either fail

or turn out to be fraudulent, leaving investors with significant losses. The presence of fraudulent or poorly managed cryptocurrency projects, combined with the high level of anonymity offered by digital currencies, creates an environment where the risks of *qimar* are amplified. Investors in these projects are essentially gambling with their funds, placing them at the mercy of market forces and dishonest actors.

From an Islamic financial perspective, addressing the *qimar* element in cryptocurrency is essential to ensuring that financial transactions are conducted in a fair, just, and sharia-compliant manner. The speculative nature of cryptocurrency, combined with the high risks associated with trading, creates a financial environment where harm is prevalent. By regulating the cryptocurrency market, educating investors, and promoting transparency, the risks of *qimar* can be minimised, allowing cryptocurrency to function in a way that aligns more closely with the ethical principles of Islamic finance. Until these issues are addressed, the use of cryptocurrency remains problematic from an Islamic perspective, as it contradicts the principles of fairness, justice, and harm avoidance that are at the heart of Islamic financial transactions.

## CONCLUSION AND IMPLICATION

The analysis of cryptocurrency transactions through the lens of Islamic legal principles reveals significant challenges in reconciling digital currencies with the core tenets of Islamic finance. The study highlights the inherent risks associated with cryptocurrency, particularly high volatility and uncertainty (*gharar*), which can cause potential harm (*dharar*) to investors and the broader financial system. The Indonesian Ulama Council's (MUI) fatwa, which deems cryptocurrency transactions impermissible in Islam, is grounded in the principles of *la darar wa la dirar* and *al-dharar yuzal*. These principles emphasise that financial

transactions should be conducted in a manner that minimises risk and ensures fairness for all parties involved. The extreme volatility of cryptocurrencies, coupled with their lack of regulation and potential for anonymity, creates an environment ripe for market manipulation, fraud, and speculation. These factors exacerbate the financial harm to investors, particularly those who lack the knowledge to navigate unpredictable market dynamics. The MUI fatwa seeks to protect Muslims from these risks by reinforcing the prohibition of financial activities that could lead to substantial harm.

The implications of this study emphasise the need for increased public awareness and regulatory measures. Investors should be educated on the risks of cryptocurrency, especially in the context of Islamic finance principles. Policymakers must establish regulations to address volatility, fraud, and market manipulation, ensuring cryptocurrencies align with the values of fairness and stability in Islamic finance. Without these measures, cryptocurrency remains incompatible with Islamic financial practices.

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