



EXAMINING *MAISIR* ELEMENTS IN THE CRYPTO WORLD: IMPLICATIONS OF INDONESIA'S MUI FATWA NO. 1 OF 2022

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ABSTRACT

The rapid expansion of cryptocurrency as a global financial instrument has raised significant concerns among Islamic legal authorities, particularly regarding the presence of *maisir* (gambling), *gharar* (excessive uncertainty), and *dharar* (harm) in its mechanisms. This article examines the status of Bitcoin and similar digital assets in light of MUI Fatwa No. 1 of 2022, which classifies cryptocurrency as prohibited when used as currency or as a speculative investment lacking underlying value. Through a qualitative analysis of fatwas, regulatory frameworks, and comparative literature from Indonesia and Malaysia, the study identifies fundamental reasons behind the categorization of cryptocurrency—especially Bitcoin—as containing elements of *maisir*, notably extreme price volatility, speculative trading behavior, and the absence of intrinsic or asset-backed value. The paper further compares Bitcoin to forex trading, highlighting distinctions in risk structure, underlying assets, and sharia contract compliance. While spot forex may be permissible under the *al-sarf* contract when conducted for legitimate exchange purposes, margin-based or derivative forex instruments are classified as haram due to speculative and *riba*-based elements. In contrast, Bitcoin predominantly operates within a speculative framework that resembles a zero-sum game, thereby meeting *maisir* criteria. A comparative analysis with Malaysia's Muzakarah Council and Shariah Advisory Council reveals a more accommodative regulatory stance, allowing cryptocurrency under strict supervision and platform licensing. Malaysia's conditional permissibility approach contrasts with Indonesia's prohibitive stance yet reflects a shared objective: minimizing public harm and preventing gambling-like practices in digital finance. The study concludes that, under current market conditions, Bitcoin investment as practiced widely today aligns strongly with *maisir* and is therefore prohibited according to MUI. Nevertheless, technological and regulatory developments—particularly asset-backed digital tokens and improved governance—may influence future sharia assessments. This suggests a dynamic interpretative space in which Islamic legal reasoning continues to engage with evolving financial innovations.

Introduction

The emergence of cryptocurrency as a financial innovation has caused polemics among scholars and religious authorities, especially regarding the halal-haram status of its use. Bitcoin, as the most popular cryptocurrency, has attracted global investment interest, including in Muslim-populated countries such as Indonesia and Malaysia. However, Bitcoin's volatile and speculative nature raises the question: is investing in it considered a legitimate investment under sharia or does it resemble gambling? In Islam, gambling is strictly forbidden as stated in the Qur'an (QS Al-Mā'idah [5]:90) which prohibits *maisir* (gambling) as a heinous act that must be avoided. The concept of *maisir* is generally understood as any form of risky transaction that has an element of luck, where one party gains a profit by causing losses to the other party, without any obvious productive benefit. In addition, Islam prohibits transactions that contain *gharar* (excessive uncertainty) and *riba* (interest/usury) because they can be wrongful to one party (Alias et al., 2024; Sacipto, 2023; Mohd. Zain & Hasan, 2021).

In November 2021, in the Ijtima Ulama forum of the Fatwa Commission throughout Indonesia, the MUI discussed cryptocurrency law which was then outlined in the MUI Fatwa No. 1 of 2022. This fatwa states that cryptocurrencies such as Bitcoin do not qualify as legal tender according to sharia, and their use (both as currency and investment commodities) is prohibited if it contains elements of *gharar*, *dharar*, and *maisir*. On the other hand, in Malaysia, the discourse on sharia law related to crypto has developed through the decisions of the Muzakarah Committee of the National Council and the consideration of authorities such as the Securities Commission (SC). Interestingly, the stance taken tends to be different: Malaysia does not outright ban cryptocurrencies but rather allows them under certain conditions. The difference in fatwas between Indonesia and Malaysia is an important background to be examined (Latang, 2024) (Yusoff, 2022).

In addition, a comparative understanding of how other instruments such as forex are treated in a sharia perspective is required. Forex (foreign exchange trading) is also commonly carried out, but it contains the potential for usury and speculation if it does not comply with the provisions of the *al-ṣarf* contract according to sharia. The DSN-MUI fatwa and sharia advice in Malaysia both set limits so that foreign exchange trading is free from gambling elements and excessive uncertainty. By comparing Bitcoin with forex, it can be identified what characteristics make an investment activity considered *maisir* (gambling) or not according to Islamic law (Syamsudin, 2019).

Literature Review

Studies on the legality and sharia compliance of cryptocurrencies have grown rapidly alongside the expansion of digital financial instruments. Early scholarship primarily focused on the presence of *gharar* (excessive uncertainty) and *dharar* (harm) in crypto transactions due to extreme price volatility and the absence of an underlying asset. Fetraningtyas and Yunanto (2020) emphasized that financial activities involving severe uncertainty risk violating the principles of fairness and transparency in Islamic commercial law. Similar perspectives appear in the work of (Sacipto R. Y., 2023), who argue that Bitcoin trading driven largely by short-term speculation lacks genuine productive value and thus risks falling under prohibited transactional categories.

Conversely, other scholars adopt a more progressive stance by examining cryptocurrency within the broader context of financial technology. Official publications of the Securities Commission Malaysia (2020) argue that digital assets cannot be equated outright with gambling or destructive speculation, as their functionality varies widely. These works highlight the potential of cryptocurrencies as efficient payment mechanisms, digital commodities, or long-term stores of value when properly regulated within sharia-compliant frameworks. Such literature considers state regulation pivotal in preventing exploitation, fraud, and other forms of harm in the crypto ecosystem.

At the national level, existing literature often describes the content of fatwas in Indonesia and Malaysia yet tends to be descriptive rather than analytical. Most studies focus on explaining the prohibitive stance of MUI Fatwa No. 1 of 2022, particularly its classification of Bitcoin as containing *maisir*, *gharar*, and *dharar*. However, they rarely examine in detail how such elements operate in actual market mechanisms. Likewise, research on Malaysia's Muzakarah Council usually highlights its more permissive approach

without unpacking the underlying legal reasoning or socio-economic context that shapes such conclusions.

A major gap in existing research is the absence of comparative studies that explore how two major Muslim-majority countries Indonesia and Malaysia construct different *fiqh* perspectives on digital assets. Previous literature has not systematically mapped the epistemological differences, regulatory environments, and economic considerations that lead to diverging fatwa outcomes. Moreover, discussions on Bitcoin are often isolated from comparisons with other financial instruments, even though such comparisons are crucial for assessing the intensity of *maisir* elements.

This study introduces three key novelties:

i. Operational Examination of *Maisir*

Rather than treating *maisir* as a purely doctrinal concept, the study analyzes how it manifests in real market dynamics specifically through price volatility, absence of intrinsic value, and speculative trading behavior that resembles a “zero-sum game.” This operational perspective is rarely addressed in prior literature.

ii. Comparative Assessment with Forex Trading

The study provides a detailed comparison between Bitcoin and forex; two instruments frequently debated in Islamic finance. While forex has long-standing jurisprudence under the *al-ṣarf* contract, Bitcoin does not. Positioning both instruments side by side reveals gradations of speculation and helps identify the unique characteristics that make Bitcoin more susceptible to *maisir*. Such comparative framing is seldom explored in existing research.

iii. Epistemological Comparison of Fatwa Methods in Indonesia and Malaysia

The article highlights not just differing conclusions but differing methodologies and philosophical orientations:

- Indonesia adopts a *sadd al-ẓarī‘ah* (preventive) approach, emphasizing public protection.
- Malaysia adopts a *takyīf fiqhī* (legal adaptation) approach, aligning sharia reasoning with digital-economy realities.
- Prior literature has not articulated these methodological distinctions with clarity.

This literature review therefore demonstrates that the present study contributes new insights to the discourse on sharia and digital finance by:

- (1) offering a structural analysis of how *maisir* operates in cryptocurrency markets;
- (2) placing Bitcoin within a comparative financial context using forex as a conceptual benchmark; and
- (3) mapping the epistemological divergence between Indonesian and Malaysian fatwa authorities.

Such contributions expand the analytical scope of existing discussions and provide a deeper, multi-layered understanding of how Islamic law responds to emerging financial technologies.

Methodology

The methods used are qualitative studies based on academic literature reviews, official fatwas of scholars, and government regulations. The results of the analysis show that the Indonesian Ulema Council (MUI) prohibits the use of cryptocurrencies as digital currency because it contains elements of *gharar* (uncertainty), *dharar* (loss), and *qimar* or *maisir* (speculation/gambling) (Latang, 2024).

Results and Discussion

Discussion 1

MUI Fatwa No. 1 of 2022: Bitcoin and *Maisir* Elements. MUI Fatwa No. 1/2022 affirms two main points: first, cryptocurrencies are haram to be used as currency; Second, it is haram to trade as a commodity/asset unless certain conditions are met. The focus of discussion here is the *maisir* (gambling) reason behind the fatwa. From MUI's perspective, Bitcoin's rampant buying and selling activity is more akin to uncontrolled speculation than a healthy investment. The fatwa states that many people buy Bitcoin not for real transaction needs, but to profit from short-term price fluctuations – a practice that is not much different from gambling, where one party's gains arise from the other's losses. Thus, these activities meet the elements of *maisir* according to sharia (Sacipto R. Y., 2023)

The definition of *maisir* used by the MUI is in line with *fiqh* literature: *maisir* is interpreted as a transaction that involves excessive speculation, is profitable, and causes losses to one party without any real benefit. Bitcoin, with its extreme price volatility, is very vulnerable to becoming a price guessing place. Bitcoin's value can rise or fall tens of percent in a matter of days, even hours, without a clear fundamental basis. This encourages the behavior of investors who buy solely hoping that the price will rise and then sell for instant profit. Patterns like this are categorized by the MUI as a *maisir* mechanism because they are similar to betting; The winning party (profit) basically "takes" the property of the losing party (losers) in a zero-sum game.

The MUI also highlighted the absence of an underlying asset or value guarantee in most cryptocurrencies. Unlike official currencies backed by governments or reserve assets and Bitcoin has no guarantors of value other than user trust. As a result, the price of Bitcoin is entirely determined by market speculation. The MUI fatwa states that this condition does not meet the requirements for *maal mitsli* (property that has a clear equivalent value) to be a legitimate object of buying and selling. Even as a digital commodity, Bitcoin is considered illegal to trade unless there is a clear underlying asset and tangible benefits (Sacipto R. Y., 2023).

On the other hand, the MUI fatwa does not completely deny the potential for a more "productive" use of Bitcoin. The fatwa mentions the possibility that if Bitcoin is treated as a digital commodity or a long-term investment instrument, its legal status becomes more complex. Some scholars argue that owning Bitcoin for the long term can be analogous to storing gold or other commodities whose value fluctuates but is expected to increase in the long term. As long as the transaction is transparent and does not contain fraud, there are those who argue that such Bitcoin buying and selling can escape the *maisir* category. However, MUI observes that in practice, the majority of people treat Bitcoin not as a store of value like gold, but as a speculative instrument for active trading. Therefore, the MUI Fatwa remains likely to be prohibitive, emphasizing the harmful side of Bitcoin speculation. The fatwa states: while there may be more halal forms of Bitcoin utilization, the risk of speculation and the absence of a strong underlying asset make its legal status vulnerable and closer to haram (Mamat et al., 2025).

Furthermore, the intention factor and transaction mechanism are also emphasized. The fatwa of the MUI and the scholars stated that *maisir* does not arise solely from price fluctuations, but from the intention of the perpetrator and the way of transactions. If someone treats Bitcoin like gambling – just guessing the price for a quick profit – then it falls on the *maize*. On the other hand, if someone uses Bitcoin more productively (e.g., as a long-term savings for inflation hedging), there is still room for discussion about whether or not it includes gambling. In essence, the MUI takes a cautious position: since the dominant use of Bitcoin tends to be speculative, it is eliminated (closed its doors) in order to prevent public losses (the principle of *sadd al-zarī'ah*). This attitude is consistent with the findings that Bitcoin has the potential to cause harm such as massive financial losses, the absence of supervisory authority, and even the risk of being used in financial crimes. By banning it, the MUI intends to protect the people from the dangers of modern gambling that is hidden in crypto trading activities (Tarmizi, 2018).

Discussion 2

Malaysian Fatwa Perspective on Cryptocurrency. In contrast to the MUI approach, fatwas in Malaysia – especially the decision of the 2020 Muzakarah of the National Council – tend to accommodate cryptocurrencies as *mubah* (allowed) as long as they are controlled. The 117th Muzakarah Decree of 2020 stipulates that transactions using cryptocurrencies must be (allowed) to be used as a means of payment, remittances, or store value, if they meet the specified sharia parameters. This includes the terms of use of the platform that is registered and supervised by the government, compliance with the law, and does not violate sharia principles in its use (not for illegal transactions, gambling, etc. In principle, Malaysia recognizes cryptocurrencies as valuable assets. According to the SAC Securities Commission Malaysia, cryptocurrencies without an underlying are categorized as *'urudh* (commodities/goods) and not usury currency, so they can be traded like ordinary commodities. However, if a digital coin is backed by *ribawi* assets (e.g. gold or fiat currency), it is treated according to the rules of *al-ṣarf* (it must be cash and commensurate if it is of the kind). The implication is that Bitcoin that is not backed by any asset is considered a digital commodity that can be traded as long as the platform and the way it is halal (Yusoff, 2022) (Yusoff, 2022)(Council, 2006).

Why is Malaysia looser? One of the considerations is the benefits and context of the digital economy. Malaysia has been developing an Islamic Fintech framework since its inception, and by regulating crypto trading, authorities can monitor and minimize abuses (e.g. money laundering or illicit funding). The fatwa in Malaysia seems to assume that if wild speculation can be restricted through regulations (e.g. it is only allowed through official exchanges, there is risk education), then crypto is not necessarily punished as gambling. In fact, there is a view that blockchain and crypto technology can bring benefits if used for legitimate purposes (e.g. accelerating remittances, financial inclusion through the tokenization of halal assets, etc.) (Mujani, 2022).

However, this does not mean that Malaysian scholars deny the potential of *maisir*. They also identify gambling elements if crypto is misused. For example, crypto trading that is unregulated or in the form of a *ponzi* scheme is still considered haram. The Mufti of the Federal Territory in Bayan Linnas (2018) highlights the *mafsadah* of Bitcoin: its value is unstable, contains *gharar*, is at risk of being abused by criminals, and threatens the financial system if not regulated. However, the solution taken is not a total ban, but leaves it to *ulil amri* (the government) to regulate and if necessary, prevent harm. This is reflected in the words of the former Mufti of the Communist Party, Zulkifli al-Bakri, who stated that the current use of Bitcoin as a currency is prohibited for the sake of the common good, but this law can change if improvements are made in the aspects of spending, price control, system security, and regulations to prevent exploitation. This means that Malaysia's approach is condition-based: crypto is not a haram substance but must be managed so that it does not become a means of gambling or tyranny. (Tarmizi, 2018)

With the existence of official crypto exchanges in Malaysia (e.g. Luno, Tokenize, etc. that are SC licensed) and the sharia valuation of the coins traded, Muslims in Malaysia can invest in crypto with more confidence. Some popular cryptocurrencies have even been classified as Shariah-compliant by the SAC. Of course, this classification considers the project and the utility of the coin, not just the price trend. For example, coins related to business or utilities are clearly more acceptable than non-fundamental meme coins. In conclusion, Malaysia's fatwa/position considers that investment in Bitcoin and other cryptos is not automatic gambling as long as it meets the sharia and legal corridors. This is in contrast to the MUI fatwa which tends to assume that Bitcoin investment must contain elements of gambling unless proven otherwise (Wright, 2020).

Mini Discussion 1

To clarify the characteristics of each instrument related to the *maisir* element, the following is presented a comparative analysis. Table 1 summarizes the differences and similarities between Bitcoin and forex from the perspective of key aspects according to Islamic law.

Table 1. Comparison of Bitcoin and Forex in Sharia Perspective (*Maisir* vs Halal Investment Elements)

Aspects	Items	Definition
Underlying Asset	There is no physical underpinning; value-based user trust (except specific types of stablecoins). In making it vulnerable to pure speculation.	Fiat money backed by authorities (Bank Central) & national economy. Points money related to macroeconomic indicators, Although fluctuating in the market.
Volatilitas Price	Very high; extreme fluctuations in Short-term is common (example: Bitcoin price can go up and down tens of dollars percent in a day). This encourages high speculative behavior.	Moderate; Currency Rate Moves according to market mechanisms and policies Monetary. It can be volatile in times of crisis, but Major currencies are usually more stable compared to crypto.
Motivation Transaction	The majority of transactions are oriented Short-term trading for profit capital (profit and sale). Search intent profit from the dominant price difference - high risk of falling on the <i>maisir</i> element if only "guess the price"	The need for money exchange for transaction/trip (halal, not Scott). If you trade forex as a Speculation on the benefits of exchange rate differences, especially with high leverage, it is easy to contain corn. The MUI Fatwa prohibits non-spot forex trading because Speculative elements (forward, etc. haram) (Syamsudin, 2019).
Regulation and Fatwa	Indonesia: Not recognized as a currency (Law 7/2011), but allowed as a digital commodities (BAPPEBTI 2019). MUI Fatwa 2022: haram as a currency & commodity (unless it has clear assets). Malaysia: Not legal tender but trading on licensed crypto exchanges is allowed. Muzakarah 2020: must (can) be subject to strict conditions. SAC SC: recognises crypto as a mall, can be traded on regulated platforms. (Sapipto R. Y., 2023) (Council, 2006).	Indonesia: Foreign exchange trading regulated by BI and Bappebti for futures. Fatwa DSN 28/2002: Forex spot changes, but forex with derivatives contracts (forward, swap, futures, options) haram Malaysia: Spot forex transactions in Malaysia Islamic banking is allowed (<i>akad al-sarf</i>). <i>Instrumen derivatif</i> valas conventional is generally prohibited, However, there are Islamic Forex products Hedging enabled by the contract (e.g. <i>wa'd</i>).
Elements <i>Maisir</i>	Very prone to maize: "zero-sum game" price speculation without a basis for real value. Traders' profits are generally sourced from the losses of other traders. MUI: investment Bitcoin fulfills the elements of maize.	Potentially harmful if treated such as gambling (e.g., exchange rate betting) short-term, especially via illegal brokers). The MUI specifically considers trading Speculative Style Forex as Illegal because it resembles <i>maisir</i> . Spot forex for reasonable needs is not considered gambling (there is a clear purpose of exchanging money). (Syamsudin, 2019)
Status <i>Kehalalan</i>	MUI: Haram (generally). SAC/Muzakarah Malaysia: Halal with conditions (do not violate the rules & use of correctly). Description: It can be halal if a crypto has an underlying asset and real benefits, but Bitcoin currently does not meet that according to the MUI fatwa. (Bahar, 2022).	Halal Spot Forex – as long as fulfilling the <i>sarf</i> contract (direct and without interest). Non-spot Forex (futures, margin trading) Haram – because it contains <i>riba</i> (swap/interest) and <i>maisir</i> (speculation of profit). Foreign currency investment as a deposit is also <i>mubah</i> as long as the purpose is clear (e.g. diversification of assets, not (Syamsudin, 2019) gambling).

From the table above, it is clear that Forex has a duality: it is seen as neutral/halal if it is done for real needs or reasonable investments, but it can turn haram when it is treated as a place for profit-making speculation (especially with leverage and complex derivative instruments). Bitcoin tends to be close to pure speculation due to its current commodity-like characteristics with no intrinsic value and its price movements are wild (Syamsudin, 2019).

Thus, without strict regulation, Bitcoin investment by the MUI is concluded to contain corn. This conceptual comparison is in line with the *fiqh* rule that "any buying and selling that contains excessive *gharar* or *maisir* is haram". The *gharar/maisir* rate in both instruments is different: spot forex is moderate while Bitcoin is very high if it is not balanced by supporting factors. This is why government regulations are also decisive. The Indonesian government, for example, through *Bappebti*, began regulating the trading of crypto assets as a commodity since 2019, stipulating only a few coins that can be traded to protect consumers. However, from the point of view of MUI *fiqh*, this step is not enough to make Bitcoin free of the elements of *maisir*. On the contrary, the Malaysian government that allows and supervises crypto trading provides a framework for people to transact more securely; Malaysia's fatwa also adjusts by saying that the law must be complied with as long as the rules are complied with.

Conclusion

Based on the analysis of fatwas and literature, it can be concluded that Bitcoin investment in the current condition tends to meet the elements of gambling (*maisir*) according to MUI Fatwa No. 1 of 2022. This is due to the high level of speculation without a clear underlying asset, so Bitcoin transactions are often zero-sum games that resemble gambling mechanisms. The MUI bans cryptocurrencies because in addition to containing *gharar* and *dharar*, they are also prominent *maisir* factors, where one party's profit comes from the other's losses by chance. This fatwa still opens the space for halal if a crypto has guaranteed assets and real benefits, but Bitcoin as a representation of the majority of cryptos does not meet these criteria (Latang, 2024).

On the other hand, comparative studies show that forex trading can also be excluded from gambling if it meets the conditions: it is carried out on a spot basis for real exchange needs, without usury and without excessive speculation. However, forex will turn out to be haram if it is traded as a derivative contract to make a profit solely from the exchange rate difference (margin trading), because there is an element of high uncertainty and betting on currency value movements, which is clearly prohibited (Syamsudin, 2019).

The comparison between Bitcoin and forex confirms the following framework: an investment activity is categorized as a *maisir* if it is dominated by speculation, is not based on real economic value or benefits, and involves a zero-sum outcome. Bitcoin in practice generally fulfils this characteristic until it is fatwa haram by the MUI. Forex, on the other hand, can be a halal investment instrument if it is run in accordance with sharia because it involves the exchange of real value (assets/businesses or foreign exchange needs) and not just a game of chance. From a state regulatory perspective, efforts to strictly regulate crypto asset trading (as Malaysia does) can reduce the element of fraud (e.g. by preventing fraud, investor education, and restricting access to crypto assets that are clearly beneficial). This is a lesson for Indonesia: good regulations need synergy with fatwas to guide the ummah in utilizing new financial technology without going out of the sharia sign.

In closing, although the Indonesian and Malaysian fatwas were different in assessing cryptocurrencies, both have the same goal, namely, to prevent the harm of gambling and excessive uncertainty for the public. Differences in context and approach result in seemingly different fatwas, but the basic principle is consistent: Islam allows investment innovation as long as it is free from the elements of *maisir*, *gharar*, usury, and harm. With the development of the crypto ecosystem, it is possible that fatwas will continue to be evaluated. Muslims are expected to always be careful, understand the substance of financial instruments before investing, and make sharia principles as a guideline so that economic activities bring blessings, not harms.

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