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# Fiqh Analysis of Cryptocurrency Through the Istihsan Method Approach: A Study of Feasibility as an Asset or Sil'ah in a Sharia Perspective

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**Abstract:**

This study examines the legal status of cryptocurrency using the istihsan method in Islamic jurisprudence and analyzes its position within Indonesia's positive legal framework. Cryptocurrency is defined as a digital asset based on blockchain technology that lacks physical form but possesses economic value and tradable utility. A normative legal research approach is employed, integrating conceptual, theological, and maqāṣid al-sharī'ah perspectives. The scope of the study focuses on the feasibility of categorizing cryptocurrency as *sil'ah* (a lawful commodity) and its regulatory compliance in the national legal system. The findings indicate that cryptocurrency may be considered permissible as a commodity when it fulfills the requirements of clear utility, lawful ownership, and absence of excessive gharar or qimar; however, it remains prohibited as a medium of payment replacing the Indonesian Rupiah. Under Indonesian law, crypto assets occupy a dual status: illegal as a form of legal tender, yet legal as a traded commodity regulated by Bappebti, with mandatory consumer protection and Anti-Money Laundering and Counter-Terrorism Financing (AML-CTF) measures. The major challenges concern price volatility and vulnerabilities to cybercrime and financial abuses. Practical implications underscore the need for adaptive regulation, Sharia-compliant due diligence standards, and improved public financial literacy. This research advances contemporary Islamic legal studies by establishing istihsan as a methodological framework for addressing digital economic transformation, while offering normative support for strengthening sharia-compliant crypto regulation in Indonesia.

**Keywords:** blockchain; consumer protection; digital asset; istihsan; Maqāṣid al-Sharī'ah.

## INTRODUCTION

Islam is a religion with comprehensive and universal teachings. Comprehensive because its teachings encompass all aspects of life, including ritual (worship), ethics, law, politics, economics, and social (muamalah). Universal, meaning it can be applied in all times and places (shâlih li kulli zamân wa makân) until the end of time. Islam provides complete guidance for its followers to live harmoniously in this world and believe in Allah (Nurdiana et al., 2025). Furthermore, Islamic teachings are not limited to a particular nation or region, but rather

apply to all humanity worldwide. Based on the historical approach in Islamic legal tradition, the Prophet's companions employed two distinct methods for conducting istinbat (legal judgment). First, a broader group of companions used ra'yu (reason), considering *illat* (cause) and *maslahat* (public interest), as well as the spirit of sharia in establishing laws. Examples of this group are Umar ibn Khattab and Abdullah ibn Mas'ud. Second, there was also a group of companions who tended to rely more on textual nas (Quranic texts and Hadith), and they rarely considered maslahat and changing times, except in urgent circumstances. Among this group were Abdullah ibn Umar, Zaid ibn Thabit, and Ibn Abbas (Gadapi, 2024).

In subsequent developments, the approach taken by both groups later developed into two major madrasahs in the science of jurisprudence. Namely, the Madrasah Ahlur Ra'yi, which was centered in Iraq, led by figures such as Ibrahim an-Nakha'i, and the Madrasah Ahlul Hadis, centered in Hijaz, with its main figures such as Zaid bin Musayyab (Isma'il, 1985). In the next generation, the Madrasah Ahlur Ra'yi in Iraq was continued by Imam Abu Hanifah, while the Madrasah Ahlul Hadis developed further under the leadership of Imam Malik in Medina (Bik, 1954). Imam Abu Hanifah, in his legal istinbat, in addition to using the Qur'an and Hadith, also adopted the Istihsan method, a principle that allows for the breadth of ijtihad in situations where qiyas (analogy) produces conclusions that are less beneficial. Meanwhile, Imam Malik used the concept of Maslahah al-mursalah as the basis of law (bin Idris asy-Shafi, 1971). Imam Shafi'i, who had studied at both madrasahs, rejected the use of istihsan as practiced by Abu Hanifah, and was less accepting of *maslahah al-mursalah* which was the basis of Imam Malik's method (Gadapi, 2024).

Imam Shafi'i's rejection of istihsan as a method of determining law is seen in various statements he conveyed, including in the book Ar-Risalah (Mtd, 2024). Learning from the methods developed by the companions of the Prophet Muhammad and the fuqaha and imams of the schools of thought mentioned above, Istimbath law to respond to the development of the times is always bound by the provisions of sharia law contained in the Qur'an and Sunnah and is even bound by provisions that are not listed in both but whose truth is recognized by sharia, such as the istihsan method which can be used as a source of Islamic law (*Masdar al-Hukm al-Naqliy*) and can be used as a method of determining a law.

Although this istihsan method is disputed by jurists to be used as a source of Islamic law, scholars who accept it argue that this source of Islamic law is reviewed from its original aspects, namely the dalil naqli and aqli. The sources of naqli law are the Quran, Sunnah, Ijma', madzhab sahabat, and shar'u man qablana. Meanwhile, those included in aqli law are; qiyas, istihsan, istishhab, and mashlahah mursalah (Firdaus et al., 2020).

Along with the advancement of information technology, which has driven significant developments in the field of Financial Technology (Fintec), it has also encouraged contemporary scholars to hold ijtima (consensus) to establish legal certainty regarding transactions conducted through financial technology, namely cryptocurrencies and their various variants (Lavrinenko et al., 2023).

Crypto assets are no longer just commodities, but have evolved into broader financial instruments. Crypto investment in Indonesia has increased rapidly, ranking third in the Global Crypto Adoption Index 2024 as of December 2024. The number of crypto asset users opening accounts on various domestic platforms has reached 22.9 million accounts, with a transaction value of IDR 650.6 trillion throughout 2024. This number represents a significant increase of 335.9% compared to the same period the previous year (Rizki, 2025).

This cryptocurrency concept is the basis for the birth of digital currencies as a means of payment, such as Bitcoin, Ethereum, Dogecoin, and so on. Bitcoin itself was launched in January 2009 and reached parity with the US dollar in 2011 (Taskinsoy, 2018). Bitcoin is currently used as an official currency in El Salvador. In addition, Bitcoin and several other cryptocurrencies also circulate within communities in the United States, Canada, the United Kingdom, Australia, Turkey, and Brazil (Apatu & Goudar, 2024). Bitcoin has also obtained legal tender status in Japan and Germany (Binder, 2022). Questions arise regarding the status of cryptocurrency, whether it is a currency or a commodity.

Based on the background previously presented, this study aims to examine the legal status of cryptocurrency through the legal istinbat approach, utilising the istihsan method and positive legal analysis. The focus of this study aims to understand the extent to which digital assets can be accepted as commodities (sil'ah) in a sharia perspective and how the certainty and legal protection for cryptocurrency users in Indonesia. Therefore, this study raises the title "Fiqh Analysis of Cryptocurrency through the Istihsan Method Approach: Feasibility Study as an Asset or Sil'ah in a Sharia Perspective." The main issues that are the core of this study are: First, can cryptocurrency be categorized as a commodity or asset that meets the requirements of sil'ah according to Islamic law? Second, has positive law in Indonesia sufficiently provided legal protection and guaranteed certainty in crypto asset trading activities as commodities? Thus, this study is expected to be able to provide theoretical and

practical contributions to the development of contemporary fiqh studies and the strengthening of digital asset regulations in the country.

## METHOD

This research employs a normative legal approach (doctrinal legal research) because it focuses on analyzing Islamic jurisprudence principles and positive legal provisions related to cryptocurrency as a digital asset from a sharia perspective (Shukla, 2023). This approach enables researchers to examine how Islamic law perceives the phenomenon of modern digital finance and the degree to which national regulations provide legal certainty and protection for its users.

To deepen the analysis, this study integrates three main approaches. First, a conceptual approach is used to deeply examine the basic concepts of cryptocurrency, its technological characteristics, blockchain-based transaction mechanisms, and its legal position at both the global and national levels. Second, a normative-theological approach is applied to interpret sources of Islamic law, such as the Qur'an, Hadith, ijma', qiyas, and the istihsan method as an instrument of legal istinbath, while also comparing them with regulations in the Indonesian legal system. Third, a maqasid sharia approach is employed to evaluate the benefits and potential harms of utilising crypto assets in relation to the primary objectives of sharia, specifically safeguarding wealth (hifz al-mal), intellect (hifz al-'aql), and religion (hifz al-din).

This research relies on secondary data obtained from primary Islamic legal sources—including classical Islamic jurisprudence texts and contemporary fatwas—as well as laws and regulations related to crypto assets in Indonesia. This data is supplemented by the latest scientific literature from national and international journals discussing Islamic economic law, Islamic financial technology, and cryptocurrency developments. All data is analyzed qualitatively and normatively to produce comprehensive legal arguments relevant to the dynamics of crypto assets in today's digital era.

## RESULTS AND DISCUSSION

### The Concept of Istihsan and Its Relevance to Cryptocurrency Legal Determination

Etymologically, Istihsan is: "Considering something is good" or "Following something good" or "Considering it is good/good" and in terminology, Istihsan is a result obtained from the mujtahid's thinking on reason and also the legal inference he makes (Shidiq, 2011). In concept itself, Istihsan is interpreted as a form of taking and practicing law because it is considered a superior law compared to the practice applied by the original law. Istihsan is an Islamic legal principle widely used in terminology and legal inference by two Imams of the school of thought, namely Imam Malik and Abu Hanifah. Moreover, Imam Malik estimates the use of istihsan to be up to 90% and all the sciences of jurisprudence (Adam, 2021).

Cryptocurrency is a digital currency that operates over the internet using a peer-to-peer system. All transactions utilize encryption techniques based on cryptographic algorithms, ensuring a high level of security (Dwicaksana & Pujiyono, 2020). The most popular cryptocurrencies currently include Bitcoin, Ethereum, Litecoin, Ripple, and Stellar. In practice, crypto assets serve three primary functions in various countries: as transaction instruments, investment instruments, and traded commodities (Imeldalius, 2024).

As a digital currency, cryptocurrency does not have a physical form like cash. Transactions are conducted directly between users (peer-to-peer) online without any third-party intermediaries. The blockchain technology used makes transactions transparent because they are publicly visible, while user identities are protected by a decentralized system (Halaburda et al., 2022). These characteristics enable global value transfers without jurisdictional boundaries and are not subject to a single authority such as a central bank (Ramesh, 2025).

In Indonesia, cryptocurrency regulations continue to evolve as the use and trading of crypto assets increases. Bank Indonesia (BI) has explicitly stated that cryptocurrencies cannot be used as legal tender in Indonesia, based on Law Number 7 of 2011 concerning Currency, which affirms the Rupiah as the sole official means of payment. However, crypto assets are not completely prohibited (Asyiqin et al., 2024). The government, through the Commodity Futures Trading Regulatory Agency (Bappebti), recognizes cryptocurrencies as a commodity that can be traded on the futures market in accordance with Bappebti Regulation No. 5 of 2019 (Muhammad Hafidz Muyassar et al., 2023).

Furthermore, other regulations, such as Minister of Trade Regulation No. 99 of 2018 and Minister of Finance Regulation No. 68/PMK.03/2022, also regulate the technical aspects of trade and the imposition of taxes on

crypto asset transactions (Fitriana & Maiza Dea Nuraini, 2023). In an effort to strengthen the national digital financial system, Bank Indonesia also plans to issue a Digital Rupiah as a form of developing a technology-based central bank currency, or Central Bank Digital Currency (CBDC). Through these various regulations, the Indonesian government seeks to provide legal certainty and protection for the public in utilizing crypto assets, both as investment instruments and as traded commodities. However, the rapid development of financial technology demands the presence of more adaptive and responsive legal instruments to address risk challenges such as price volatility, money laundering, and terrorist financing (Gaviyau & Sibindi, 2023).

At this point, Islamic legal analysis becomes significant in providing a normative basis for the presence of crypto assets in contemporary muamalah activities. One important approach in legal istinbat is the istihsan method, which allows for legal flexibility when general arguments or qiyas are no longer able to answer the needs of modern transactions such as cryptocurrency (Yani et al., 2024). Ushul fiqh scholars provide definitions of istihsan with different wordings according to their scientific viewpoints. According to al-Bazdawi, istihsan is abandoning the necessity of using the initial qiyas towards another qiyas that is stronger or specializing qiyas with a stronger argument (Kadenun, 2018). An-Nasafy also emphasizes that istihsan is moving from a qiyas to another qiyas that is stronger or to arguments that are opposite to qiyas jalli. Meanwhile, Abu Hasan al-Karkhi defines istihsan as the transfer of a mujtahid from one pre-established law to a different law because there are other aspects of the law that are considered stronger and more beneficial for the public good (Amir et al., 2023).

Thus, istihsan provides a dynamic space for ijtihad in positioning crypto assets as a new object of muamalah not yet fully accommodated within the framework of classical Islamic law (Abadi et al., 2023). This approach allows for the establishment of laws that are not only aligned with Sharia principles but also align with the objectives of benefit and public protection, as required by positive legal regulations in Indonesia.

**Legal confirmation of Cryptocurrency as a commodity based on the Istihsan approach**

In Islamic legal tradition, the development of new transaction instruments and forms of property always presents epistemological challenges for Islamic jurists to accurately determine their legal status. Cryptocurrency, as a contemporary digital financial phenomenon, is a form of technological innovation that demands an adaptive methodological response from the science of ushul fiqh (Sami, 2025). In this context, the istihsan method becomes a relevant tool for accommodating the needs of modern society without abandoning the basic principles of Sharia. Etymologically, istihsan is derived from the word hasuna, which means viewing a matter as good or more appropriate to apply than other legal methods (Asy-Syatibi, 2003). Terminologically, Abdul Wahhab Khallaf defines istihsan as "shifting the law from general provisions to specific provisions due to considerations of need (hajah) or benefit (maslahah) that are stronger than considerations of qiyas." Thus, istihsan is a methodological correction mechanism when the application of qiyas can actually cause difficulties or conflict with the principle of ease in sharia (raf' al-haraj) (Mardhiah & Afrizal, 2021).

The istihsan approach has historically been widely used by Hanafi scholars, particularly Abu Hanifah, as a method of ijtihad that maintains a balance between legal texts (nash) and dynamic social change (Hosen, 2019). Within this framework, istihsan is not interpreted as unlimited legal liberalization, but rather as a form of methodological depth to ensure that the application of Islamic law remains oriented towards the welfare, justice, and avoids potential harm or social injustice. Scholars believe that legal determination should not stop at textual analogy alone, but must consider the evolving realities and needs of the community that continue to change over time (taghayyur al-azminah wa al-amkinah) (Humphreys, 1985). Therefore, istihsan can be positioned as a critical instrument that allows legal flexibility in responding to digital economic instruments such as cryptocurrency.

From a traditional Islamic jurisprudence perspective, the debate over the legal status of cryptocurrencies is largely based on the qiyas-jali approach, which leads to the prohibition or at least avoidance of the use of these crypto assets. Several main arguments are frequently put forward. First, cryptocurrencies are considered to lack the element of materiality ('ayniyyah) because they lack a physical form like currency or assets in general (Alamad, 2024). Second, the lack of guarantees from state authorities makes them non-compliant with the standards of nuqud syar'iyyah, as stipulated in Islamic law that a medium of exchange must be recognized and guaranteed by a legitimate institution (R. Hassan et al., 2019). Third, cryptocurrencies are considered to contain elements of gharar (uncertainty) and maysir (speculative) due to their extremely high price volatility and potential use in illegal activities (Inam Ul Mansoor, 2025). Fourth, some scholars believe that crypto assets do not meet the

criteria for mal mutaqawwim, namely assets that have benefits according to sharia, have clear value and ownership, and can be transferred in a legitimate transaction (H. Ahmed, 2024).

This qiyas-based rejection approach has a strong theoretical basis in maintaining the stability of the value of money and the financial system, thereby preventing widespread economic uncertainty. However, this argumentation pattern is considered too rigid, because it does not consider the reality of global economic transformation, especially the development of information technology that has an impact on the expansion of the definition of wealth (*al-mal*) in the contemporary context (Zysman, 1996). Classical fiqh does not recognize the form of wealth in the form of digital data or non-physical assets, but history shows that the definition of al-mal has always evolved in line with changes in the economic structure of humanity. In the early days of Islam, for example, scholars once debated the status of paper money that has no intrinsic value like the gold and silver-based dinar and dirham, but today paper money is accepted as a legitimate instrument in modern transactions through considerations of public need (*hajah 'ammah*) and maslahah (Chapra, 2000).

Considering these dynamics, the use of the istihsan method becomes highly relevant for assessing the status of cryptocurrencies. If analogous to money, which must be guaranteed by the state, cryptocurrencies are not valid as a means of payment. However, through istihsan, cryptocurrencies can be legally transformed into commodities (sil'ah) with exchange value (qabil li al-tabaddul) based on market recognition and sharia-compliant benefits (Yuneline, 2019). ). Economically, crypto assets have value due to high demand and the utilities associated with blockchain technology, such as smart contracts and decentralized finance (DeFi) (Auer et al., 2024). This factor indicates the existence of real and transactable benefits, thus fulfilling the element of al-manfa'ah in the definition of al-mal.

Furthermore, the application of istihsan also considers that a total ban on cryptocurrencies could leave Muslims behind in technological developments and the global digital economy. In fact, many countries have developed regulatory frameworks for crypto asset trading, including Indonesia, through the Commodity Futures Trading Regulatory Agency (Bappebti), which has designated it as a legal futures commodity (Galant et al., 2024). In the context of the maqasid sharia, asset protection (*hifzh al-mal*) not only means safeguarding assets from loss but also encompasses optimizing access to new economic opportunities that can improve the welfare of the community (Auda, 2008). In other words, blocking access to digital financial instruments without a strong sharia-compliant rationale could actually hinder the welfare and economic development of Muslims.

Through the istihsan approach, Islamic scholars can establish boundaries to ensure cryptocurrency transactions comply with Sharia law, such as avoiding products based on extreme speculation (gharar fahisy), ensuring transparency, and ensuring that cryptocurrencies are used solely as traded commodities, not as substitutes for legal tender, which could threaten the stability of the monetary system. Therefore, istihsan allows for the emergence of more proportionate and contextual legal provisions: cryptocurrencies can be considered halal as commodities (sil'ah) as long as they meet Sharia standards, but they should not be used as a means of payment that replaces official currency (Akbar, 2022).

The debate over the legal status of cryptocurrency from a contemporary Islamic jurisprudence perspective in Indonesia is rooted in diverse interpretations among scholars regarding the nature of these digital assets: whether they function as a medium of exchange (currency) or as a commodity (sil'ah). Scholars who consider cryptocurrency a currency argue that it fulfills the two primary functions of money: as a medium of exchange and a store of value through acceptance by the global community of crypto users (Mattke et al., 2020). However, others view cryptocurrency as a commodity because it is traded more as an investment instrument and possesses beneficial value derived from the cryptographic technology that underpins it (Mikhaylov, 2020). Despite its status as a digital asset, the Indonesian Ulema Council (MUI) has drawn strict boundaries regarding its use, particularly in the context of payment or trade.

The 2021 Indonesian Ulema Fatwa Commission's Ijtima' decision stated that cryptocurrency is not valid as a means of payment because it contains elements of gharar and dharar and is contrary to Law Number 7 of 2011 concerning Currency, which affirms the Rupiah as the only legal means of payment in the territory of the Republic of Indonesia (Abdillah, 2023). Extreme price volatility, the potential for market bubbles, and its potential use as a means of digital crimes such as money laundering are the main factors that strengthen the position of crypto as a currency that is haram (Kethineni & Cao, 2020). However, this decision also opens up the opportunity for sharia legitimacy with the limitation that cryptocurrency can be treated as a commodity or digital asset if it meets the principles of muamalah fiqh regarding clarity of transaction objects and certainty of value and does not contain pure speculation that approaches the practice of gambling.

This ambivalent attitude stems from a careful approach to legal istinbath—between protecting the public interest and avoiding potential harm. The istihsan approach plays a crucial role in this discourse. As an Islamic legal method that allows flexibility in the application of qiyas (reasoning), istihsan serves to avoid difficulties (raf' al-haraj) in contemporary economic life (Fariadi et al., 2025). In the context of cryptocurrencies, which emerged from global technological developments and have been accepted in international financial markets, the application of istihsan can provide a sharia basis for assessing crypto in terms of its benefits and welfare for the community (jalb al-maslahah wa dar'u al-mafsadah), as is a fundamental principle of Islamic law (Al-Qaradawi, 2001).

In Indonesia, positive regulations recognize cryptocurrency as a tradable commodity asset under the supervision of the Commodity Futures Trading Regulatory Agency (BAPPEBTI). This gives crypto legal legitimacy at the economic level, although it remains prohibited as a means of payment. Therefore, the application of istihsan provides a rational basis for considering cryptocurrency as a commodity rather than a currency within the national context.

Table 1. Comparing the regulatory basis and Islamic law regarding cryptocurrency in Indonesia

| Aspect | Indonesian Positive Law | MUI's Jurisprudential Views (2021) |
|---|---|---|
| **Legal status as a means of payment** | Prohibited (Law No. 7/2011) | Haram |
| **Legal status as a commodity** | Allowed with BAPPEBTI supervision | Conditional permission, if it meets the criteria of sil'ah. |
| **Risk of loss, damage, and value** | High on certain assets | Became the reason for the ban of some crypto |
| **Legality of trade** | Valid on official exchanges | Valid if the benefits, ownership and transactions are clear |

*Processed from BAPPEBTI, BI, and MUI (2020–2023).*

The maslahah mursalah approach further strengthens the argument for the permissibility of crypto as a sil'ah. Cryptocurrencies present an inclusive digital economic opportunity, especially in facilitating cross-border transactions without high costs and opening up financial access for people in areas that are not accessible to conventional banking (M. Ahmed et al., 2020). These benefits are relevant to the maqasid sharia, especially hifz al-mal, hifz al-'aql, and hifz al-din when implemented in an accountable and secure manner. Blockchain technology innovations that support decentralised verification systems also support the value of transparency and data security, so that in the context of modern muamalah, it can be considered a form of maslahah worth considering.

However, maslahah cannot stand alone without fulfilling the principles of Islamic jurisprudence regarding the object of the transaction. From a muamalah perspective, cryptocurrency must fulfill the following characteristics: beneficial value, legally owned, transferable, free from excessive gharar (unclear) elements, free from sin, and its benefits are *mutaqawwam* (unclear). Ownership is determined through control of a private key as proof of valid digital rights and can be transferred at any time to another party through a blockchain mechanism (Garba et al., 2021). Although non-physical, the concept of al-qiyam al-ma'nawi allows for sharia recognition of digital assets if their benefits are clear and publicly recognized, as is the case with intellectual property rights or other digital goods.

Gharar is a key issue in the cryptocurrency legal debate. The Prophet Muhammad (peace be upon him) forbade transactions involving gharar (a hadith narrated by Muslim). However, scholars distinguish between tolerable gharar yasir (minor gharar), and major gharar fahisy (major gharar), which violates the contract. Therefore, crypto assets with clear projects, transparent whitepapers, and strong community and infrastructure support, such as Bitcoin and Ethereum, can be considered tolerable gharar (Bhatt & Sisodia, 2024). Another factor is the government's efforts, through BAPPEBTI (Indonesian Financial Transactions and Infrastructure Development Agency), to establish a list of crypto assets suitable for trading based on fundamental, technological, and security assessments. This policy aligns with the principle of istihsan, which values the role of authorities in preventing harm and protecting consumers (Triwibowo et al., 2022).

In the context of 'urf, global public acceptance of cryptocurrency as a digital asset can also form the basis for its sharia-compliant permissibility. Islamic jurisprudence scholars permit new muamalah practices that do not

conflict with sharia, based on legally valid customs. With the development of digital economic culture, crypto is slowly becoming part of accepted economic traditions. Therefore, legal considerations cannot be based solely on its intangible nature, but also on public acceptance and its realistic benefits (Hung, 2024).

However, one of the conditions that must be upheld in the permissibility of crypto, according to istihsan, is the prevention of excessive speculation that leads to gambling (qimar). The Prophet forbade any form of transaction that approaches gambling. Many crypto tokens create pseudo-value without any real project (shitcoins), thus being more accurately categorized as haram due to their extreme speculative practices. The Islamic jurisprudence principle of sadd az-zari'ah (closing the door to harm) must apply in this case to protect the community from financial loss. Therefore, only quality crypto with clear underlying assets and free from market manipulation can be traded according to sharia (M. K. Hassan et al., 2025).

Summarizing this entire analysis, the results of the legal istimbath based on the istihsan approach essentially position cryptocurrency as a commodity (sil'ah) that can be traded according to sharia principles under certain conditions: it is not used as a means of payment to replace official currency, it is not used for illicit transactions or purposes, it has legitimate utility value, the transaction mechanism is clear, and it is under the supervision of competent authorities. In Indonesia, BAPPEBTI has carried out this function, so that crypto trading has a sufficiently strong legal basis as part of a modern economic instrument (Darmawan et al., 2025).

Thus, cryptocurrency law as a sil'ah (Islamic law) is in a mubah muqayyad (permissible) position—permissible but bound by sharia conditions and regulations, as well as state law (Shomad & Nik Abdul Ghani, 2025). The istihsan approach allows Islamic law to adapt to developments in global financial technology without neglecting the principles of protecting property and the welfare of the people. Therefore, the MUI fatwa permitting cryptocurrency as a commodity, as long as it meets Sharia standards, is a clear example of the flexibility of Islamic jurisprudence in responding to the challenges of the contemporary digital economy.

**Analysis of the Position of Cryptocurrency in the Positive Legal System**

Within the context of Indonesian positive law, cryptocurrency occupies a unique and contentious position. On the one hand, it represents a financial technology innovation offering efficiency, transparency, and new economic opportunities through blockchain technology. However, on the other hand, gradual and responsive regulations indicate that the government remains cautious about the potential risks of using crypto assets in national economic activities. This is understandable given the state's role in ensuring the stability of the monetary system and protecting consumers from the negative implications of rapidly developing financial innovations (Kregel & Savona, 2020). Therefore, an analysis of the legal status of cryptocurrency in Indonesia must examine its legality as a means of payment, its status as a tradable commodity, consumer protection, and the accompanying anti-money laundering regulations (Muttaqim & Apriliani, 2019).

First, cryptocurrency is expressly not legal tender. Law Number 7 of 2011 concerning Currency serves as the fundamental foundation that positions the Rupiah as the sole sovereign means of payment within the Republic of Indonesia (Aris & Herlina, 2022). The provisions of Article 1 number 1 and Article 21 of the Currency Law stipulate that all transactions conducted within Indonesia must use the Rupiah (Ekawati et al., 2024). Therefore, the use of cryptocurrency as a substitute for money for the sale and purchase of goods and services, whether directly or through digital platforms, is legally invalid and could be considered a violation of the national payment system. This prohibition was reinforced by Bank Indonesia through BI Regulation Number 18/40/PBI/2016 concerning the Implementation of Payment Transaction Processing, which explicitly prohibits the use of virtual currencies in payment transactions (Prasetyo et al., 2019). This position demonstrates the country's strong commitment to safeguarding the Rupiah's sovereignty as a symbol of the national economy and monetary stability in the face of the potential dominance of decentralized digital assets that lack regulatory authority.

However, the government did not immediately reject the entire existence of cryptocurrencies. Regulations then developed toward a compromise, recognizing cryptocurrencies as commodities that could be traded on futures exchanges. This paradigm shift began to emerge when the Commodity Futures Trading Regulatory Agency (Bappebti) declared crypto assets a legal commodity through Bappebti Regulation Number 5 of 2019, updated with Regulation Number 8 of 2021 (Izmi & Siagian, 2024). Through this regulation, the government provided a legal framework and standards for the implementation of physical crypto asset markets in Indonesia. The policy also stipulated strict requirements for the registration of crypto asset traders (crypto exchanges), custodians, and system managers to ensure transaction security and market integrity (Ferreira & Sandner, 2021). This legal recognition stems from the view that crypto assets have the potential to provide economic

contributions, such as new investment opportunities, the development of financial information technology, and increased competitiveness of the national digital economy. However, the designation of crypto assets as mere commodity objects confirms that the state continues to separate their use as a store of value or trading asset (investment instrument) from the currency function that is directly related to the stability of the financial system (Belke & Beretta, 2020).

A logical consequence of recognizing crypto assets as commodities is legal protection for consumers in crypto trading activities. Although crypto asset transactions carry high risks due to extreme price volatility, the government ensures that consumer protection principles are implemented, as stipulated in Law Number 8 of 1999 concerning Consumer Protection (Mucharom & Aspihanto, 2018). Crypto asset trading businesses are required to provide true, clear, accurate, and non-misleading information regarding investment risks, platform security, and transaction procedures. Thus, the public as investors is protected from potential fraud, market manipulation, or risk concealment (moral hazard) (Pohan et al., 2023). Furthermore, the existence of technical regulations governing security tokens, risk management standards, and minimum business capital requirements demonstrates the government's desire to ensure that the crypto asset industry develops with sound governance. Consumer protection in the crypto sector is a strategic issue given the significant year-on-year increase in the number of crypto asset investors in Indonesia, including many retail investors who are vulnerable to being trapped in illegal investment schemes disguised as crypto.

Furthermore, from a national financial security perspective, regulations related to Anti-Money Laundering and Prevention of the Financing of Terrorism (AML-PPT) are a crucial aspect that strengthens the position of crypto within a strict legal framework. The pseudonymous, cross-border nature of cryptocurrencies, and their lack of oversight by a single authority, makes them vulnerable to being exploited for illicit activities such as money laundering, tax evasion, drug trafficking, and terrorism financing (Smith, 2024). Therefore, companies operating in the crypto asset sector are required to implement Know Your Customer (KYC) principles, Customer Due Diligence (CDD), and report suspicious transactions to the Financial Transaction Reports and Analysis Center (PPATK), as mandated by Law No. 8 of 2010 concerning the Prevention and Eradication of Money Laundering (Lukito, 2016). Collaboration between regulators such as Bappebti (Trade Commodity Futures Trading Regulatory Agency), PPATK, and the Financial Services Authority (OJK) is being strengthened to ensure that no legal loopholes can be exploited by financial criminals in the crypto asset ecosystem. This proves that the presence of cryptocurrency in the digital economy must remain subject to the principles of transparency, accountability, and security of the national financial system.

These various provisions demonstrate that Indonesia adheres to a dualistic, risk-based regulatory approach. On the one hand, the government prohibits cryptocurrencies from replacing the Rupiah as a means of payment, thus maintaining monetary stability and national economic sovereignty (Sukarno & Pujiyono, 2020). However, on the other hand, the government continues to open opportunities for innovation and technological utilization by regulating the trading of crypto assets as legal commodities. This approach reflects regulatory caution in dealing with a still-evolving phenomenon full of uncertainty, both economically, legally, and technologically (Hutukka, 2024). Thus, the legal position of crypto assets in Indonesia can be said to be in a middle ground, seeking to optimize economic opportunities while mitigating the various risks associated with them.

This adaptive regulatory development also demonstrates positive legal dynamics responsive to advances in financial technology (fintech). Within the framework of progressive legal theory, law not only keeps pace with societal developments but is also capable of guiding change for the better (Amelia, 2023). The government, through regulations from Bappebti (Commodity Futures Trading Regulatory Agency), Bank Indonesia (BI), PPATK (Financial Transaction Reports and Analysis Center), and the Consumer Protection Law, strives to maintain a balance between innovation and security. However, significant challenges remain regarding the synchronization and harmonization of regulations between institutions. For example, the unclear position of cryptocurrency in the context of taxation, the status of smart contracts in civil law, and dispute resolution mechanisms in crypto trading still require more detailed regulation to ensure legal certainty for all industry players (Ferreira, 2021).

In the future, the direction of crypto regulation in Indonesia is likely to evolve, particularly with the development of the Central Bank Digital Currency (CBDC) concept as a response by global monetary authorities to the phenomenon of financial decentralization (Ozili, 2023). Bank Indonesia is even developing Project Garuda as a first step towards a digital Rupiah controlled by the financial authority system. If this is realized, regulations

on cryptocurrencies as private assets will be even stricter to prevent disruption to the operation of the country's digital currency. At the same time, the scope for blockchain utilization in other sectors such as public administration, healthcare, and logistics could expand as they are not directly related to monetary stability (Koh et al., 2020).

Considering the overall applicable legal framework, the position of cryptocurrency within Indonesia's positive legal system can be concluded as follows: crypto assets are not legal tender but are legal commodities permitted for trading, subject to consumer protection provisions and compliance with the AML-CFT regime. This position confirms that the state recognizes the existence of cryptocurrency but remains under the jurisdiction of Indonesian law to maintain national economic stability, financial system security, and the interests of the wider public (Alhakim & Tantimin, 2024).

To strengthen the position of cryptocurrency within the national legal system, a comprehensive mapping is needed that illustrates the legal boundaries, scope of use, and regulatory oversight parameters. This mapping is useful for demonstrating that the regulation of crypto assets is not a single legal regime, but rather involves a multi-stakeholder, intersecting regulatory framework. Therefore, the following table summarizes the key aspects that determine the position of cryptocurrency under Indonesian positive law in a clear and systematic manner, covering aspects of payment instruments, commodities, consumer protection, and Anti-Money Laundering and Counter-Terrorism Financing (AML-CFT).

Table 2. Position of Cryptocurrency in Indonesia's Positive Legal System

| Legal Aspects | Legal Status | Regulatory Basis | Legal Implications | Supervisory Authority |
|---|---|---|---|---|
| **Payment Method** | Not valid for use as a means of payment | • Law No. 7/2011 concerning Currency | | |
| **• PBI No. 18/40/PBI/2016** | All payment transactions must be in Rupiah; using crypto as a means of payment is a violation of the law. | Bank Indonesia | | |
| **Trading Commodities** | Legal as a digital commodity (crypto asset) | • Bappebti Regulation No. 5/2019 | | |
| **• Bappebti Regulation No. 8/2021** | Tradable on registered futures exchanges, with strict operational standards and risk management. | CoFTRA | | |
| **Consumer Protection** | Applicable in crypto asset trading activities | • Law No. 8/1999 concerning Consumer Protection | Business actors are obliged to provide clear, non-misleading information and protect consumer rights. | CoFTRA |
| **(Coordination with the Ministry of Trade/OJK if related to other sectors)** | | | | |
| **APU-PPT** | Mandatory implementation of KYC, transaction monitoring, reporting of suspicious transactions | • Law No. 8/2010 concerning the Crime of Money Laundering | Preventing misuse of crypto assets for financial crimes and terrorism financing | PPATK (collaboration between Bappebti, BI, OJK) |

The table reflects Indonesia's implementation of a prudential regulatory approach, accommodating the development of digital assets while maintaining financial system stability and the security of public transactions. Regulation is strategically positioned to encourage the growth of digital economic innovation, without compromising the sovereignty of the national currency or consumer protection. The relationship between these four aspects also demonstrates a complementary division of authority between authorities, ensuring that cryptocurrency oversight is not centralized in a single institution (Khan et al., 2024).

Thus, it can be concluded that the existence of cryptocurrency under Indonesian positive law creates a tiered regulatory structure: it is prohibited as a means of payment but permitted as a traded commodity with strong oversight standards, including compliance with consumer protection and AML-CFT legal regimes. This regulatory structure remains dynamic and is subject to future adjustments, as blockchain technology develops, investor participation increases, and the potential implementation of a digital Rupiah, which could significantly alter the national monetary policy landscape.

## CONCLUSION

This study answers two main questions: (1) can cryptocurrency be categorized as a legitimate commodity (sil'ah) according to Islamic law? and (2) to what extent does positive law in Indonesia provide legal certainty for cryptocurrency trading as a digital asset? The results of the study indicate that from a fiqh perspective, the use of the istihsan method allows for derogation from rigid qiyas by providing a legal assessment based on stronger benefits. Cryptocurrency can be positioned as a permissible sil'ah for trade, provided it is not used as a means of payment to replace official currency, does not involve excessive gharar and qimar practices, and the object of the transaction is clear in terms of benefits, ownership, and transfer mechanism. Thus, its legal status is mubah muqayyad (conditionally permissible), which emphasizes the flexibility of fiqh in responding to the evolution of the digital economy.

From a positive Indonesian legal perspective, cryptocurrency is not legal as a means of payment under Law No. 7 of 2011 and Bank Indonesia regulations. However, it is legally recognized as a futures commodity that can be traded through the Crypto Asset Exchange, as stipulated by the Commodity Futures Trading Regulatory Agency (Bappebti). Consumer protection regulations and compliance with the Anti-Money Laundering and Counter-Terrorism Financing regime strengthen legal legitimacy and guarantee transaction security for investors.

This finding has theoretical implications that the istihsan method can be a model for developing Islamic law that is responsive to technological innovations such as digital assets, without abandoning the principle of maqā.yesMeanwhile, the practical implications of the research findings are that they can serve as a reference for regulators, fatwa institutions, and industry players in designing crypto transaction policies and instruments that are safe, sharia-compliant, and globally competitive.

However, this research has limitations due to its normative nature and the lack of empirical analysis of market behavior and risk implementation in specific crypto instruments. Further research is recommended to develop a Sharia-compliant crypto asset index, a standardized due diligence model, and the harmonization of fatwas and regulations at the national and global levels.

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