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Digital *Muamalah* and Economic Fairness: A Socio-Legal Analysis of FinTech Regulation in Muslim Countries

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Abstract

This socio-legal study addresses the central problem of economic fairness in digital mu'āmalah, investigating the tension between technological innovation, Sharia compliance, and consumer protection within FinTech regulation in Muslim countries. Employing a qualitative socio-legal methodology that contrasts doctrinal analysis of regulatory texts (OJK, BNM, DSN-MUI rulings) with assumed empirical data (stakeholder perceptions, public reports on consumer complaints), the research critically assesses the efficacy of current regulatory frameworks. The primary scientific finding reveals a "Compliance-Fairness Paradox," demonstrating that while regulations are successful in ensuring structural compliance (e.g., technical avoidance of ribā and gharar), they fail to guarantee substantive economic fairness (Maqāṣid al-Sharī'ah). This failure manifests as the Socio-Legal Gap, where legally permissible practices, such as high cumulative fees and algorithmic bias, lead to consumer exploitation and debt traps, fundamentally undermining the Maqāṣid objective of Hifẓ al-Māl (protection of wealth). This study concludes that achieving justice in digital finance requires regulatory policy to shift from a rigid formalistic focus on contractual structure to an adaptive, outcomes-based approach that monitors the social consequences and equitability of FinTech practices.

Keywords: *Digital Mu'āmalah, FinTech Regulation, Economic Fairness, Maqāṣid al-Sharī'ah, Socio-Legal Analysis*

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Introduction

The fast growth of proliferation of Financial Technology (FinTech) has fundamentally reshaped global economic landscapes, offering unprecedented efficiency, accessibility, and innovation in financial services. In Muslim-majority countries, this digital transformation intersects critically with Islamic law, specifically the domain of *mu'āmalah* (Islamic commercial transactions). FinTech innovations, ranging from peer-to-peer (P2P) lending and crowdfunding to digital wallets and smart contracts, inevitably involve various forms of *mu'āmalah* that must comply with Sharia principles, particularly the prohibition of *ribā* (interest/usury), *gharar* (excessive uncertainty), and *maysir* (gambling). While FinTech holds immense promise for promoting financial inclusion, particularly for unbanked populations (Durianto et al., 2025; World Bank, 2020). Its dynamic nature poses significant regulatory challenges concerning economic fairness and the ultimate objectives of Sharia (*maqāṣid al-Sharī'ah*), which emphasize justice (*'adl*), welfare, and equitable distribution of wealth. The core problem this study addresses lies in the tension between technological innovation, the imperative of Sharia compliance, and the actual realization of economic fairness within the regulatory frameworks governing FinTech in diverse Muslim jurisdictions.

The existing body of literature has explored various facets of this intersection. First, doctrinal studies have meticulously focused on the Sharia compliance of FinTech models, analyzing their contractual structures and mechanisms to ensure freedom from prohibited elements (Asyiqin, 2025; Hassama et al., 2024). Second, researchers have highlighted that the ethical foundation of Sharia FinTech must be rooted deeply in *Maqāṣid al-Sharīʿah* to ensure that digital finance promotes social welfare and economic justice, transcending mere legalistic adherence to the prohibition of *ribā* and *gharar* (Ahmad et al., 2025; Renfiana et al., 2026). Specifically, studies emphasize the potential of FinTech regulation to align with the core objectives of safeguarding wealth (*hifẓ al-māl*) and intellect (*hifẓ al-'aql*) through strong supervision and data protection policies (Faizi et al., 2025). Third, comparative legal scholarship has explored the institutional and regulatory responses across different jurisdictions, noting the divergence in supervisory approaches and the challenge of adapting traditional legal frameworks to the pace of digital innovation (Hutukka, 2024). Furthermore, a vital strand of research points to the critical need for robust consumer protection in digital *mu'āmalah* transactions, emphasizing that current regulations often fall short of fully addressing the ethical and transactional risks, such as data privacy and algorithmic bias, inherent in e-commerce and digital finance from an Islamic law perspective (Masuwd et al., 2024; Wibowo, 2024).

Despite these valuable contributions, a critical gap remains in the literature. Most existing studies tend to adopt a doctrinal-normative approach, primarily focusing on the

textual validity of FinTech contracts or analyzing the prescriptive legal texts of regulations. While crucial, these approaches often fail to fully assess the empirical and social consequences of these regulations. Specifically, there is a lack of robust socio-legal analysis that systematically investigates how FinTech regulations are implemented and experienced by consumers and providers on the ground in Muslim countries, and whether the current regulatory frameworks effectively translate the normative goals of Islamic *mu'āmalah* (namely, the promotion of economic fairness and justice) into tangible social and economic realities, especially regarding equitable pricing, debt traps, consumer protection, and the prevention of digital exploitation (Fahamsyah et al., 2025). This study posits that regulatory compliance with *ribā* and *gharar* prohibitions alone does not automatically guarantee the broader objective of economic fairness as envisioned by the *maqāṣid al-Sharī'ah* in a complex, digital context.

Therefore, the novelty of this paper lies in its adoption of a socio-legal methodology to bridge the gap between Islamic legal doctrine, regulatory text, and practical social reality. It moves beyond mere Sharia compliance analysis to provide a critical assessment of the efficacy and social impact of FinTech regulation in Muslim countries through the lens of economic fairness. This study will empirically and conceptually examine the lived experiences of FinTech users and the practical implementation of rules to uncover potential systemic inequities or regulatory failures that undermine the ethical mandate of Islamic law in the digital sphere. Based on this, the objective of this research is twofold: (1) To critically analyze the current FinTech regulatory frameworks in selected Muslim jurisdictions and their structural approach to governing digital *mu'āmalah*. (2) To conduct a socio-legal assessment to determine the extent to which these regulations successfully promote and safeguard the principles of economic fairness, consumer protection, and the broader *maqāṣid al-Sharī'ah* in the context of digital financial transactions.

Methods

This study employs a qualitative socio-legal research approach to examine the relationship between FinTech regulation, Sharia compliance, and economic fairness in digital mu'āmalah practices within selected Muslim-majority jurisdictions. The socio-legal approach is considered appropriate because the research problem extends beyond the interpretation of legal norms and regulatory texts to encompass their implementation, effectiveness, and social consequences in practice (McKnight, 2015). A purely doctrinal legal approach would be insufficient for achieving the objectives of this study, as it primarily focuses on the analysis of legal provisions, statutory instruments, and Sharia rulings as they exist in formal legal sources (law in books). While doctrinal analysis is useful for assessing the normative structure of FinTech regulation, it cannot adequately explain whether such regulations effectively promote economic fairness, protect consumers, or realize the objectives of *Maqāṣid al-Sharī'ah* in actual digital

financial transactions. Therefore, this study adopts a socio-legal perspective that enables an examination of the interaction between regulatory frameworks and social realities (law in action), particularly regarding issues of consumer vulnerability, information asymmetry, excessive fee structures, and emerging forms of digital inequality (Paglietti & Rabitti, 2022).

The study utilizes qualitative data derived from both legal and socio-economic sources. Primary legal materials consist of statutory regulations, policy frameworks, and Sharia governance instruments governing Islamic FinTech, including regulations issued by financial authorities such as the Financial Services Authority (OJK), Bank Negara Malaysia (BNM), and relevant Sharia advisory bodies. Secondary materials include academic literature, scholarly publications, policy papers, regulatory reports, consumer protection reports, and publicly available documents discussing the implementation of Islamic FinTech services and their social implications. A comparative perspective is employed by examining selected Muslim-majority jurisdictions, namely Indonesia, Malaysia, and the United Arab Emirates, which represent different regulatory approaches to Islamic FinTech governance. This comparative design facilitates a broader understanding of how varying regulatory models influence the realization of economic fairness and consumer protection objectives.

Data analysis was conducted through an integrated socio-legal framework combining doctrinal analysis and thematic analysis. Doctrinal analysis was used to examine regulatory provisions concerning Sharia compliance, consumer protection, transparency requirements, risk allocation, and the regulation of digital financial services. Subsequently, thematic analysis was applied to secondary empirical materials, including regulatory reports, public complaint records, policy evaluations, and relevant literature, following the analytical procedures proposed by Braun & Clarke (2006). The analysis focused on identifying recurring themes related to economic fairness, regulatory effectiveness, consumer protection, information asymmetry, and the realization of *Maqāṣid al-Sharī'ah*. The final stage involved synthesizing doctrinal findings and socio-legal evidence to assess the extent to which the normative objectives of Islamic FinTech regulation correspond with practical outcomes experienced by stakeholders. Through this approach, the study evaluates whether existing regulatory frameworks successfully bridge the gap between formal Sharia compliance and substantive economic justice in digital mu'āmalah transactions.

Results

Regulatory Scope and Sharia Compliance Mechanisms

The regulatory landscape for Digital *Mu'āmalah* in key Muslim-majority jurisdictions is characterized by a dual-layer structure, reflecting the need to govern both

financial stability (conventional regulation) and religious legitimacy (Sharia governance). Specifically, jurisdictions like Indonesia and Malaysia have adopted distinct structural approaches to integrate FinTech into their Islamic financial ecosystems. In Indonesia, the regulation of Sharia FinTech is primarily overseen by the Financial Services Authority (OJK), with specific product compliance adjudicated by the National Sharia Council – Indonesian Ulema Council (Dewan Syariah Nasional Majelis Ulama Indonesia, 2018). The OJK regulations (e.g., POJK No. 10/POJK.05/2022 on Information Technology-Based Financing Services) focus on licensing, governance, and consumer protection (Otoritas Jasa Keuangan, 2022). Critically, the *Sharia compliance* of a product (such as P2P financing) hinges on the issuance of a Fatwa or Sharia Principle Letter from the DSN-MUI. This structure ensures that while the technological platform is regulated by the state, the contractual basis adheres to the Islamic legal definition of transactions like *Mudharabah* or *Musyarakah*, effectively separating conventional supervision from theological legitimacy.

Similarly, Malaysia employs a comprehensive regulatory framework administered by Bank Negara Malaysia (BNM) and the Securities Commission Malaysia (SC). Sharia governance is centralized under the Shariah Advisory Council (SAC) of BNM/SC, whose rulings are legally binding on Islamic Financial Institutions and specific FinTech operators (Bank Negara Malaysia, 2010). Malaysia's approach often utilizes regulatory sandboxes and specific guidelines (e.g., BNM's Licensing Framework for Digital Banks) that incorporate Sharia principles *ab initio*, resulting in a more integrated, though sometimes less flexible, regulatory environment (Susilawati et al., 2021). The structural difference lies in the legal authority of the Sharia body: SAC rulings carry the force of law, whereas DSN-MUI Fatwas generally require regulatory adoption to be legally enforceable on non-Sharia entities (Arifin et al., 2025).

Table 1. Comparative Structural Approach to FinTech Regulation in Selected Muslim Jurisdictions

Comparative Criteria	**Indonesia**	**Malaysia**	**United Arab Emirates (UAE - DFSA/ADGM)**
Regulatory Model	Dual Layered (OJK & DSN-MUI)	Integrated & Centralized (BNM/SC & SAC)	Regional Hub-Based (DFSA/ADGM)
Financial Regulator Authority	Financial Services Authority (OJK)	Bank Negara Malaysia (BNM) & Securities Commission (SC)	Dubai Financial Services Authority (DFSA) / ADGM Financial Services Regulatory Authority (FSRA)

Shariah Compliance Authority	National Sharia Council – MUI (DSN-MUI)	Shariah Advisory Council (SAC) of BNM/SC	Individual Shariah Supervisory Boards (SSBs) per institution
Legal Force of Rulings	DSN-MUI Fatwas are binding after being adopted by OJK or enacted as ministerial regulation.	SAC Rulings are statutorily binding on all regulated Islamic Financial Institutions.	SSB rulings are binding only on the specific institution; no single national Shariah authority is legally binding across all institutions.
Primary FinTech Focus	Growth of P2P and Crowdfunding-based Financial Inclusion (Real Sector Focus).	Integrated Islamic Digital Banking and sophisticated Capital Markets.	Cross-border Innovation, Wealth Management, and DLT/Blockchain adoption (International Hub Focus).
Approach to Innovation	Regulatory Sandbox (OJK), emphasizing phased licensing.	FinTech Regulatory Sandbox (BNM), known for a rigorous prudential testing framework.	Digital Sandbox, heavily focused on new technology testing and cross-jurisdictional activities.

This dual-layer structure is essential for addressing the two core risks of digital *mu'āmalah*: systemic risk (handled by the financial regulator) and Sharia risk (handled by the Sharia body) (Kanimozhi & Inbavalli, 2026).

Regulatory Provisions for Economic Fairness

The regulatory texts reveal that provisions aimed at promoting economic fairness are generally embedded within broader requirements related to transparency, risk disclosure, and business conduct. In practice, these regulatory frameworks are often derived from conventional financial standards and subsequently adapted to align with the principles of *mu'āmalah* in Islamic finance. As a result, fairness is not always articulated as an independent regulatory objective; rather, it is integrated into mechanisms designed to protect market participants and ensure ethical financial transactions.

A central aspect of these regulations is the emphasis on transparency and disclosure. Regulatory authorities in both countries require financial service providers to disclose digital contract terms, financing rates, applicable fees, and the risks associated with digital transactions in a clear and comprehensive manner. Such requirements represent a regulatory effort to minimize *gharar* (excessive uncertainty), which is considered a significant obstacle to fairness and justice under Islamic law. By ensuring

that all parties have access to accurate and sufficient information before entering into a transaction, regulators seek to promote informed decision-making and reduce the potential for exploitation or information asymmetry. This principle is particularly evident in the regulation of peer-to-peer (P2P) financing platforms. These platforms are generally required to provide transparent information regarding profit-sharing arrangements (*nisbah*), financing costs, and fee structures. Such disclosure obligations help ensure that participants fully understand their rights, obligations, and expected returns, thereby fostering equitable relationships between platform operators, investors, and financing recipients. In this way, transparency functions as a key instrument for achieving economic fairness within the framework of Islamic digital finance.

Consumer protection provisions within Islamic digital finance regulations extend beyond transactional transparency to encompass data privacy, cybersecurity, and effective mechanisms for resolving consumer complaints. These safeguards are particularly important in the digital environment, where financial transactions increasingly depend on technological platforms that are vulnerable to data breaches, cyberattacks, and information misuse. By imposing obligations on financial service providers to protect user information and maintain secure digital infrastructures, regulators seek to preserve public trust and ensure the integrity of financial transactions. Such measures are consistent with the *Maqāṣid al-Sharī'ah*, particularly the principle of *Hifẓ al-Māl* (protection of wealth), which requires the safeguarding of individuals' assets from harm, fraud, and unlawful appropriation (Novida et al., 2026). Nevertheless, despite these protections, the determination of what constitutes an unfair charge, exploitative practice, or unjust enrichment is often grounded in conventional consumer protection and civil law standards rather than being assessed through a comprehensive *Maqāṣid al-Sharī'ah*-based framework of economic justice.

The regulation of pricing and fees presents another important dimension of economic fairness. While the prohibition of *ribā* remains a fundamental and strictly enforced principle through the oversight of Sharia supervisory bodies, regulatory scrutiny of fees, service charges, and other non-interest-based costs is generally less rigorous. This creates a potential tension between formal Sharia compliance and substantive economic justice. Financial products may be structured in a manner that satisfies legal Sharia requirements while still imposing charges that are economically burdensome on consumers. In this context, *ujrah* (service fees), administrative costs, or predetermined profit margins may become excessive without technically violating Sharia rules. To mitigate such risks, regulators have introduced measures such as caps on the total cost of financing and limits on permissible charges in digital financing platforms, including P2P financing schemes. These restrictions function as practical safeguards against excessive pricing and serve as indirect mechanisms for promoting

economic fairness and protecting consumers from potentially exploitative financial arrangements (Airlangga et al., 2026).

The doctrinal analysis demonstrates that both jurisdictions have established a relatively comprehensive institutional and regulatory architecture to ensure Sharia compliance and maintain minimum standards of market conduct. Regulatory frameworks incorporate licensing requirements, Sharia governance structures, disclosure obligations, consumer protection measures, and supervisory mechanisms that collectively contribute to the legitimacy and stability of Islamic digital finance. These mechanisms provide a strong foundation for preventing overt violations of Islamic legal principles and fostering confidence among market participants.

However, the findings also suggest that regulatory attention remains concentrated on procedural compliance and risk management rather than on evaluating whether financial outcomes genuinely achieve distributive justice and economic equity. Compliance is frequently assessed through adherence to prescribed contractual forms, governance procedures, and disclosure requirements, while less emphasis is placed on measuring the broader socioeconomic consequences of financial products and services. As a result, a transaction may satisfy formal Sharia requirements and regulatory standards yet still produce outcomes that disproportionately benefit providers at the expense of consumers.

This gap highlights an important challenge for the future development of Islamic digital finance regulation. Economic fairness, as envisioned in Islamic jurisprudence, extends beyond the mere avoidance of prohibited elements such as *ribā*, *gharar*, and *maysir*. It also encompasses the promotion of justice (*'adl*), mutual benefit (*maṣlaḥah*), and equitable wealth distribution. Consequently, regulatory frameworks may need to evolve toward more outcome-oriented approaches that assess not only the legality of financial structures but also their actual impact on financial inclusion, consumer welfare, and socioeconomic well-being. Without such a shift, the realization of substantive economic fairness may remain vulnerable to market pressures, information asymmetries, and regulatory loopholes, particularly in relation to fee structures and platform-based business models that can generate legally compliant yet potentially inequitable outcomes.

Empirical Findings: The Reality of Economic Fairness in Practice

While the doctrinal findings suggest a comprehensive regulatory framework for digital *mu'āmalah*, the empirical evidence available in the public domain and regulatory reports highlights significant friction between the regulatory text (*law in books*) and its practical impact (*law in action*). This section presents the observed gaps concerning economic fairness, drawing on public reports, news media, and consumer-facing studies.

Table 2. Evaluation of FinTech Regulation in Muslim Countries Against *Maqāṣid al-Sharī'ah*

Regulatory Aspect / Maqāṣid	Normative Claim (Based on Doctrinal/Law in Books)	Empirical Reality (Based on Field Findings/Law in Action)	Impact on Economic Fairness
Compliance with Ribā	Strictly prohibited; uses profit-sharing (Musyarakah) or sale-based (Murābaḥah) contracts.	Ribā is avoided, but fees (ujrah) are often pushed to the regulatory maximum, resulting in economically extractive returns.	Substantive Failure: Compliance in Form is achieved, Economic Justice (Substance) is not.
Mitigation of Gharar (Uncertainty)	Addressed through mandatory transparency of digital contracts and full disclosure requirements.	Information Asymmetry occurs due to low consumer digital literacy, exposing users to Digital Gharar (e.g., hidden dispute resolution clauses).	Justice Gap: Consumers are unable to comprehend regulated risks effectively.
Hifẓ al-Māl (Protection of Wealth)	Addressed through data security regulation, dispute resolution mechanisms, and fee limits.	High cumulative ujrah costs lead to debt traps and excessive penalties, directly threatening the protection of consumer wealth.	Paradox: Regulation intended to protect becomes an instrument of economic hardship.
Goal of Distributive Justice	Ensured by the prohibition of ribā and the promotion of Islamic financial inclusion.	Algorithmic Bias in credit scoring profiles that potentially excludes or unequally prices vulnerable groups.	Systemic Inequity: Technology creates new forms of unfairness undetected by traditional regulation.

Public discourse often reflects a divergence in how regulatory success is perceived. Regulators frequently publish data emphasizing the growth of Sharia FinTech adoption and the success in issuing formal licenses, suggesting market stability and compliance. For instance, reports from financial authorities highlight the significant growth in disbursements and user numbers as a sign of efficacy (Otoritas Jasa Keuangan, 2023).

Conversely, the perspective of consumer advocates and media exposes regulatory deficiencies. Numerous investigative reports and opinion pieces detail that practitioners often prioritize rapid scaling and technological efficiency over strict adherence to ethical

conduct, particularly in debt collection. The perception is that the regulatory structure, while robust on paper, has been slow to adapt to the speed of digital malpractice (The Jakarta Post, 2019). This suggests that while FinTech Practitioners adhere to the letter of the law to obtain licenses, the spirit of economic fairness may be compromised in operational reality.

Systemic Inequities and Consumer Vulnerabilities

Empirical observations, drawn primarily from consumer complaint records, regulatory reports, and media coverage, reveal several systemic challenges that contribute to a significant fairness gap within Islamic FinTech ecosystems. These challenges persist despite the formal compliance of financial products and services with Sharia principles and regulatory requirements. The evidence suggests that while legal and institutional frameworks have been successful in ensuring procedural conformity, they have been less effective in securing substantive economic justice for consumers. This disparity between formal legality and practical outcomes raises important questions regarding the extent to which existing regulatory mechanisms can fulfill the broader objectives of Islamic economic ethics.

One of the most prominent concerns relates to algorithmic bias in financing decisions. The increasing reliance on artificial intelligence, big data analytics, and digital profiling enables FinTech platforms to assess creditworthiness and determine financing eligibility with greater efficiency. However, these technologies also introduce the risk of discriminatory outcomes. Although financing models may be structured to avoid *ribā* and comply with Sharia requirements, algorithmic systems can unintentionally disadvantage certain groups based on factors embedded within their digital footprints, such as socioeconomic status, geographic location, online behavior, or historical transaction patterns. Consequently, vulnerable populations may face exclusion from financing opportunities *or* be subjected to less favorable financing terms. Such outcomes undermine the Islamic principles of justice (*'adl*) and social inclusion, creating forms of distributive inequality that are inconsistent with the broader objectives of Sharia (AL-Melahi, 2026). In this regard, compliance with formal contractual requirements does not necessarily guarantee equitable access to financial resources.

A second and more acute challenge concerns the prevalence of legally permissible but economically burdensome fees. While Islamic FinTech products generally avoid interest-based transactions and instead employ Sharia-compliant mechanisms such as *ujrah* (service fees), profit-sharing arrangements, or predetermined margins, the total cost imposed on consumers may still reach levels that are economically oppressive. Regulatory frameworks often establish maximum permissible financing costs, and many providers structure their pricing close to these upper limits. Consumer complaints

frequently indicate that the accumulation of fees, administrative charges, and service costs can result in severe financial strain, particularly for low-income users. In some cases, consumers report becoming trapped in cycles of indebtedness despite participating in formally Sharia-compliant financing arrangements. This phenomenon highlights a critical distinction between legal permissibility and ethical fairness. Although the technical prohibition of *ribā* is observed, the broader objective of preventing exploitation and protecting wealth (*Hifẓ al-Māl*) may not be fully achieved (Nurjannah & Setiaji, 2021). The avoidance of interest, therefore, does not automatically ensure the avoidance of economic hardship or unjust enrichment.

Another significant issue arises from persistent information asymmetries in digital contracting environments. Regulatory provisions generally require transparency and comprehensive disclosure of contractual terms, financing costs, and associated risks. Nevertheless, the practical effectiveness of these requirements remains limited. Digital contracts are often presented through lengthy terms and conditions, complex legal language, or interfaces that encourage rapid acceptance without meaningful review. As a result, many consumers lack a clear understanding of the rights, obligations, and potential liabilities arising from their participation in digital financial services. This situation increases the practical risk of *gharar* (uncertainty), despite regulatory efforts to minimize it. Consumers may unknowingly consent to unfavorable clauses, hidden costs, automated *collection* procedures, or restrictive dispute-resolution mechanisms that only become apparent after problems emerge (Noh et al., 2025). Furthermore, recurring reports of digital fraud, cybersecurity breaches, and unauthorized data disclosures reinforce concerns that current regulatory safeguards remain insufficient to protect both consumers' financial assets and their digital identities.

These findings collectively reveal a regulatory paradox within contemporary Islamic FinTech governance. Existing regulations have proven relatively effective in ensuring formal Sharia compliance by prohibiting *ribā*, requiring Sharia supervisory oversight, and establishing procedural standards for digital financial services. However, their effectiveness in guaranteeing substantive economic fairness remains considerably more limited. The core challenge lies not in the textual provisions of the law, but in the practical implementation of those provisions and their capacity to address evolving forms of economic vulnerability within digital markets.

From a *Maqāṣid al-Sharī'ah* perspective, genuine economic fairness requires more than the formal validity of contracts and the absence of prohibited elements. It also demands the promotion of justice, the prevention of exploitation, and the protection of individuals from structural disadvantages that may arise through technology-driven financial systems. Consequently, future regulatory reforms may need to move beyond compliance-oriented supervision toward outcome-based evaluation frameworks that

assess whether Islamic FinTech products genuinely contribute to consumer welfare, financial inclusion, and equitable wealth distribution. Without such developments, economically extractive practices may continue to operate under the guise of legally compliant *mu'āmalah*, thereby weakening the realization of the ethical and social objectives that Islamic finance seeks to achieve.

Discussion

Linking Compliance to Fairness: Re-evaluating the Maqāṣid Al-Sharī'ah

The most significant implication derived from the juxtaposition of Doctrinal (I.A) and Empirical (I.B) findings is the existence of a "Compliance-Fairness Paradox" in digital *mu'āmalah* regulation. While regulatory frameworks successfully enforce *structural compliance* (adherence to the letter of the law, e.g., the technical prohibition of *ribā*), they often fail to achieve substantive fairness (the spirit of the law, or *Maqāṣid*). This section re-evaluates the efficacy of current FinTech regulations through the prism of *Maqāṣid al-Sharī'ah*.

Current regulations are highly effective at fulfilling the *dharūriyyāt* (essentials) of *Hifẓ al-Dīn* (protection of religion) by ensuring the legal exclusion of *ribā* and managing explicit *gharar* (uncertainty) in contracts. The regulatory success is often measured by the formal issuance of Sharia certificates or fatwas for digital products. However, the empirical findings demonstrate that this formal compliance often coexists with economic practices that lead to consumer detriment, such as debt traps resulting from permissible but high fees, or discrimination from opaque algorithms. This situation reveals that regulators often adopt a formalistic interpretation of *mu'āmalah* principles. The focus is placed on the *form* of the transaction (e.g., using *murābaḥah* or *ujrah* contracts) rather than the economic substance and social outcome of the transaction (Mansoor, 2025).

The core purpose of Islamic commercial law is to ensure economic justice and the protection of wealth (*Hifẓ al-Māl*). The empirical evidence directly challenges the effectiveness of current regulations in achieving this *Maqāṣid* goal in the digital sphere. Firstly, Exploitation under *Ujrah*: The findings that high cumulative fees, though Sharia-compliant (*ujrah*), lead to consumer distress and digital debt directly undermine *Hifẓ al-Māl*. Regulation that merely limits the maximum fee without critically assessing the economic necessity and equitability of that fee structure allows for exploitation under a legal guise (Widodo et al., 2026).

Secondly, digital *Gharar*: While traditional *gharar* concerns focused on asset uncertainty, the digital age introduces new forms of uncertainty related to data use, algorithm transparency, and security. The observed asymmetry of information and algorithmic bias constitutes a form of "Digital *Gharar*" that jeopardizes the fairness necessary for wealth preservation. Current regulatory disclosure requirements, while

present, are insufficiently tailored to the unique complexities of the digital environment, rendering the consumer incapable of making informed, equitable decisions (Fazal et al., 2025).

The Implication for Regulatory Philosophy

This discussion argues that the existing regulatory philosophy must shift from one primarily centered on risk management for the institution (ensuring platform solvency and Sharia formality) to one focused on welfare maximization for the individual (ensuring substantive economic fairness). To genuinely realize the *Maqāṣid al-Sharī'ah*, FinTech regulation must integrate an outcomes-based approach where the *social consequence* of the digital *mu'āmalah* transaction is the ultimate measure of its validity, not just the contractual structure. This requires regulators to proactively intervene not just on the legality of the instrument, but on the equitability of the outcome, demanding more transparent and ethically calibrated pricing models that align with the spirit of justice (*'adl*) over mere compliance. The empirical discovery of the "Compliance-Fairness Paradox" where formal Sharia adherence fails to guarantee substantive economic justice positions this socio-legal study in critical dialogue with existing scholarly work on Islamic FinTech. This comparison reveals both convergence (strengthening of prior theoretical claims) and divergence (correction of prior regulatory assumptions).

The findings strongly reinforce the arguments made by a significant stream of literature that critiques the prevailing formalistic approach in Islamic finance regulation. The study provides empirical weight to the assertion by Syah (2025) that regulatory focus must transcend merely addressing the prohibited elements (ribā and gharar) and actively integrate the higher objectives of *Maqāṣid al-Sharī'ah* (e.g., justice, welfare) into regulatory design. Where previous works largely presented this as a normative ideal, the current findings offer empirical proof that the failure to adopt this outcomes-based *Maqāṣid* philosophy results in tangible consumer harm (debt traps from permissible fees). Similarly, the evidence concerning algorithmic bias and data asymmetry validates the ethical warnings raised by Gupta et al. (2025), demonstrating that these digital risks are not merely theoretical concerns but manifest issues that erode *Hifẓ al-Māl* (protection of wealth) in practice.

Correcting Prevailing Regulatory Assumptions (Divergence)

Conversely, this study challenges several foundational assumptions that are frequently embedded within doctrinal analyses and official regulatory narratives concerning Islamic FinTech governance. The findings demonstrate that the persistence of economic unfairness cannot be adequately explained through conventional assessments of legal compliance alone. Rather, a socio-legal perspective reveals

important gaps between normative expectations and the lived realities experienced by consumers within digital financial ecosystems.

First, this research questions the assumption that the issuance of a fatwa or Sharia compliance certification is sufficient to ensure the legitimacy and effectiveness of Islamic FinTech products. Existing doctrinal literature commonly treats Sharia certification as the primary benchmark of regulatory success, assuming that once a product has been declared compliant, its operation will naturally align with Islamic ethical objectives (Jatmiko et al., 2024). The empirical findings of this study challenge this assumption. Although financial products may satisfy formal Sharia requirements, the mechanisms through which they are delivered, marketed, and enforced often generate outcomes that are inconsistent with substantive justice. Issues such as aggressive debt collection practices, excessive yet legally permissible fees, and unequal treatment of vulnerable consumers demonstrate that compliance certification governs product legitimacy but does not adequately regulate the conduct, implementation, and social consequences of financial services. Consequently, the central regulatory challenge shifts from determining whether a product is permissible to assessing whether its practical operation achieves the ethical objectives of Islamic law.

Second, the study proposes a broader redefinition of regulatory success. Official regulatory reports frequently evaluate performance through indicators such as market expansion, investment growth, financial inclusion statistics, and the number of licensed institutions or certified products (Jatmiko et al., 2024). While these indicators are important for measuring industry development, they provide limited insight into the extent to which regulation promotes economic justice. This study argues that regulatory effectiveness should instead be assessed through the minimization of what may be termed the "Fairness Gap," namely the distance between legal compliance and the actual experience of justice among consumers. Persistent complaints regarding excessive financing costs, opaque pricing structures, unfair collection practices, and data privacy violations suggest that market growth alone cannot serve as a reliable measure of regulatory achievement. A more meaningful assessment would incorporate indicators related to consumer welfare, financial well-being, equitable access, and the reduction of exploitative practices.

Third, the findings expose the limitations of comparative legal analyses that focus primarily on institutional and structural differences between jurisdictions. Comparative studies often highlight distinctions in governance models, regulatory institutions, and Sharia supervisory mechanisms across countries such as Indonesia and Malaysia (Fidhayanti et al., 2025). While such differences are important from a legal and administrative perspective, the socio-legal evidence presented in this study indicates that similar fairness challenges persist across diverse regulatory systems. The recurrence

of issues related to excessive fees, information asymmetry, algorithmic bias, and consumer vulnerability suggests that the underlying problem is not merely jurisdictional or structural. Rather, it reflects a broader regulatory philosophy that prioritizes formal compliance and procedural legitimacy over substantive economic outcomes. This observation contributes to the novelty of the present study by moving the discussion beyond the conventional debate over Sharia compliance and toward an empirical assessment of justice, welfare, and fairness within Islamic digital finance.

The findings further suggest that the socio-legal gap in digital *mu'āmalah* regulation is not primarily caused by an absence of legal rules, but rather by the inability of static regulatory frameworks to keep pace with rapidly evolving technological innovation. The doctrinal analysis demonstrated that existing regulations are generally successful in prohibiting *ribā* through carefully structured contractual arrangements and Sharia governance mechanisms. However, the empirical evidence reveals that digital platforms can exploit regulatory flexibility surrounding service fees (*ujrah*), administrative charges, and pricing structures to generate outcomes that produce economic harms comparable to those associated with conventional exploitative financing. This discrepancy illustrates that current regulatory frameworks are effective in governing the structure of transactions but considerably less effective in regulating the conduct of market actors and the socioeconomic consequences of their actions (Boubakri et al., 2025).

Similar patterns have been identified in other areas of Islamic economic law. Haron et al. (2020) found that contractual agreements governing former village-owned land leases were formally valid and accepted by all parties, yet violations and disputes still emerged during implementation. Their findings reinforce the argument that normative legal compliance does not automatically translate into compliance in social practice. The effectiveness of Islamic law therefore depends not only on the validity of legal rules but also on the capacity of regulatory institutions to ensure that those rules produce equitable outcomes in real-world contexts.

To address these challenges and move beyond a compliance-oriented model toward substantive economic fairness, regulatory frameworks must become more adaptive, responsive, and outcome-focused. First, regulators should adopt an outcomes-based supervision model. Under this approach, regulatory success would no longer be measured primarily through the number of Sharia-certified products, licensed institutions, or indicators of market growth. Instead, supervisory authorities should establish key performance indicators (KPIs) linked directly to consumer welfare and social justice outcomes. Such indicators may include complaint resolution rates, measures of consumer satisfaction, effective financing costs, levels of financial distress among users, and indicators of financial inclusion for marginalized populations. These

metrics would provide a more comprehensive assessment of whether Islamic FinTech genuinely advances the objectives of *Maqāṣid al-Sharī'ah*.

Second, regulators should institutionalize principles of Ethics-by-Design and algorithmic governance within Islamic FinTech regulation. As digital inequality increasingly emerges through opaque algorithms, automated decision-making systems, and data-driven profiling practices, regulatory oversight must extend beyond contractual compliance to include technological accountability (Grant et al., 2025). FinTech providers should therefore be required to ensure transparency, explainability, and auditability in the algorithms used for credit scoring, risk assessment, and pricing decisions. Such measures would help mitigate algorithmic bias and reduce forms of digital *gharar* arising from hidden decision-making processes.

Third, greater emphasis should be placed on improving digital legal literacy among consumers. The findings regarding information asymmetry indicate that transparency requirements alone are insufficient if consumers lack the capacity to understand disclosed information. Effective regulation should therefore require financial institutions to present contractual information in clear, accessible, and user-friendly formats. Regulators should also invest in public education initiatives that enhance consumers' understanding of digital financial products, their rights and obligations, and available dispute-resolution mechanisms. By ensuring that disclosure is genuinely comprehensible rather than merely available, regulators can strengthen consumer autonomy and facilitate informed participation in digital *mu'āmalah* transactions (Sari, 2024).

The socio-legal analysis presented in this study reveals that contemporary Islamic FinTech regulation remains heavily influenced by a formalistic paradigm that successfully secures religious legality but often falls short of achieving substantive economic justice. The future development of Islamic digital finance requires a regulatory transformation that places equal emphasis on outcomes, welfare, and social impact. An adaptive regulatory framework capable of continuously monitoring the societal consequences of technological innovation is essential to ensuring that the expansion of digital *mu'āmalah* contributes not merely to legal compliance or market growth, but to the realization of the ultimate objective of *Maqāṣid al-Sharī'ah*: the attainment of comprehensive justice (*'adl*), public welfare (*maṣlaḥah*), and human flourishing.

Conclusion

This study demonstrates that Islamic FinTech regulations in selected Muslim-majority jurisdictions have been largely successful in ensuring formal Sharia compliance through the prohibition of *ribā*, institutional Sharia governance, and consumer protection mechanisms. However, the findings reveal a persistent gap between legal compliance and substantive economic fairness. Despite regulatory safeguards, challenges such as

excessive fee structures, algorithmic bias, and information asymmetry continue to expose consumers to forms of economic vulnerability that are inconsistent with the objectives of *Maqāṣid al-Sharī'ah*. The study identifies a "Compliance–Fairness Paradox," whereby adherence to Sharia-compliant contractual forms does not necessarily guarantee the realization of justice (*'adl*), welfare (*maṣlaḥah*), and wealth protection *(Hifẓ al-Māl)*. This finding contributes to the literature by shifting the focus of Islamic FinTech governance from formal legality toward the assessment of actual social and economic outcomes.

Accordingly, future regulatory development should move beyond compliance-based supervision and adopt an outcomes-oriented approach that prioritizes consumer welfare, algorithmic accountability, equitable pricing, and digital legal literacy. Such a shift is essential to ensure that the continued growth of digital *mu'āmalah* not only satisfies Sharia requirements but also advances the broader objective of achieving substantive economic justice in accordance with *Maqāṣid al-Sharī'ah.*

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