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Compromise of Mutakallimin and Hanafiyah Methods in Islamic Law Reform Dynamics

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Abstract

Classical *usul al-fiqh* produced two ways of constructing legal theory: the deductive *tariqah al-mutakallimin* and the inductive *tariqah al-hanafiyyah*. Studies of Islamic law reform often contrast them as "normative" versus "contextual" and recommend combining them, yet rarely identify the theological premises behind each method or engage the historical precedent of *tariqah al-jam'*. This conceptual study applies qualitative content analysis to primary usul works and contemporary literature to answer three questions: what distinguishes the two methods, how the difference operates in concrete rulings, and what operational model of integration can be formulated. The findings show that the distinction is not reason versus text, since both methods are rational; they differ in the direction of reasoning and in their *kalam* premises on the rational knowability of good and evil. Four comparative cases (*khamr* and *nabidh*, guardianship in marriage, *salam*, and *ijarah*) show that divergence arises from specific rules on solitary reports, general terms, *istihsan* and the concept of *rukn*. The study proposes a four-stage model of verification, contextualization, *maqasid* testing and *tarjih*, and tests it on the 2021 Indonesian fatwa on cryptocurrency. The model develops *tariqah al-jam'* from a method of writing into an auditable procedure of collective *ijtihad*.

INTRODUCTION

Debates on the reform of Islamic law in Indonesia are increasingly conducted through institutions rather than individual jurists. The National Sharia Board (DSN-MUI), the Compilation of Islamic Law (KHI), the Supreme Court and the fatwa commission of the Indonesian Ulema Council (MUI) routinely issue rulings on issues that classical fiqh never addressed, from digital assets to the registration of interfaith marriages (Azhar, 2024; Prabowo et al., 2025). Each of these rulings presupposes a

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method. Yet the methodological discussion behind them is often reduced to a general appeal to *maslahah* or *maqasid al-shari'ah*, with little attention to the older question of how legal theory itself should be constructed (Abu Bakar & Sahman, 2024).

Classical usul al-fiqh offers two answers to that question. Ibn Khaldun (1967) already observed that jurists wrote legal theory in two ways: the theologians (*mutakallimun*) built their principles through rational proof and argument, independently of the positive rulings of any school, while the Hanafis derived their principles from the rulings (*furu'*) transmitted from their imams and kept the two consistent. The first way is called *tariqah al-mutakallimin* not because it relies on revelation alone, but because it was developed by jurist-theologians, Ash'ari and Mu'tazili alike, who brought the tools of *nazar*, logic and dialectic into legal theory: al-Baqillani, Qadi 'Abd al-Jabbar, Abu al-Husayn al-Basri, al-Juwaini and al-Ghazali (Hallaq, 1997; Weiss, 1992). Its normative character therefore lies in its deductive orientation and its independence from the *furu'* of any school, not in a rejection of reason. The second way, *tariqah al-hanafiyyah* or *tariqah al-fuqaha'*, crystallized in the works of al-Karkhi, al-Jassas, al-Dabusi, al-Bazdawi and al-Sarakhsi, and reads legal theory out of established juristic practice (Zysow, 2013).

Indonesian scholarship commonly describes this pair as "normative" versus "contextual" and concludes that reform requires combining them (Adinugraha & Ulama'i, 2020; Trigiyatno, 2008; Yasid, 2012). Three problems weaken this conclusion. First, the combination it recommends already exists historically as *tariqah al-jam'* (the combined method of the later jurists), represented by Ibn al-Sa'ati's *Badi' al-Nizam*, Taj al-Din al-Subki's *Jam' al-Jawami'*, Ibn al-Humam's *al-Tahrir* and Muhibbullah al-Bihari's *Musallam al-Thubut*; a proposal to integrate the two methods must explain what it adds to this tradition (Trigiyatno, 2008). Second, the theological premises that separate the methods, above all the dispute over whether good and evil (*al-husn wa al-qubh*) can be known by reason before revelation, are rarely examined, even though they shape central usul questions such as the causation of rulings and the basis of *maslahah* (Reinhart, 1995; Opwis, 2010). Third, the characterization of each method tends to shift: the same *tariqah al-mutakallimin* is described as guarding law from rational interference in one place and as rational and flexible in another.

International scholarship provides firmer ground. G. Makdisi (1984) reads usul al-fiqh as a "juridical theology" shaped by the rivalry between traditionalist jurists and the theologians; Hallaq (1993) shows that usul crystallized as a genre only in the fourth/tenth century, well after al-Shafi'i; Weiss (1992) reconstructs the mature theory of the mutakallimin through al-Amidi; Zysow (2013) explains the Hanafi theory through its distinctive typology of certainty; and Vishanoff (2011) and El Shamsy (2013) trace how hermeneutical rules and the canon of al-Shafi'i were formed. Recent Indonesian studies of fatwa, in turn, evaluate the outcomes of rulings such as the 2021 MUI decision on cryptocurrency from the standpoint of *maslahah* or state regulation (Prabowo et al., 2025; Sanuri et al., 2025). What remains missing is a study that connects the kalam premises of the two methods, their concrete divergences in istinbath, and an

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operational procedure that a fatwa institution could follow.

This article addresses that gap through three research questions. RQ1: What distinguishes *tariqah al-mutakallimin* and *tariqah al-hanafiyyah* epistemologically and theologically? RQ2: How does this distinction operate in concrete cases where the schools actually diverge? RQ3: What operational model of integration can be formulated, how does it differ from the historical *tariqah al-jam'*, and how does it perform when applied to a contemporary case? The article argues that the two methods differ less in their attitude to reason than in the direction of their reasoning and in specific usul rules, and that an integration model is useful only if it turns these rules into a transparent sequence of decisions.

RESEARCH METHODS

This is a conceptual, library-based study using qualitative content analysis. The primary corpus consists of representative works of both methods: al-Shafi'i's *al-Risalah* and *al-Umm*; al-Baqillani's *al-Taqrib wa al-Irshad*; Abu al-Husayn al-Basri's *al-Mu'tamad*; al-Juwaini's *al-Burhan*; al-Ghazali's *al-Mustasfa*; al-Sarakhsi's *Usul al-Sarakhsi*; and 'Abd al-'Aziz al-Bukhari's *Kashf al-Asrar*, a commentary on the *Usul* of al-Bazdawi (Al-Baqillani, 1998; Al-Basri, 1964; Al-Ghazali, 1993; Al-Juwaini, 1997; Al-Sarakhsi, 1993; Al-Shafi'i, 1940, 1990; A. A. Al-Bukhari, n.d.). Ibn Rushd's (2004) *Bidayat al-Mujtahid* is used for the comparative cases because it states the reasons for juristic disagreement explicitly. The secondary corpus consists of international and Indonesian studies of usul al-fiqh and fatwa, while the 2021 MUI decision on cryptocurrency, the 2005 MUI fatwa on interfaith marriage, the KHI and Supreme Court Circular (SEMA) No. 2 of 2023 serve as contemporary case material.

Content analysis proceeded in three steps. First, the primary texts were coded for four themes that the literature identifies as points of methodological difference: the epistemic role of reason and the related kalam premise of *husn* and *qubh*; the authority of solitary reports (*khabar al-wahid*) relative to general terms; the status of *istihsan*; and the relation between principles and *furu'*. The term "thematic" in this study refers to these coding categories, not to a separate method. Second, four classical cases were selected purposively because the schools diverge in them or construct the same ruling differently: khamr and nabidh, guardianship in marriage, the salam contract and the ijarah contract. Each case was analyzed by tracing the ruling back to the usul rule that produced it. Third, the findings were synthesized into an integration model, which was then applied to the 2021 cryptocurrency decision as an illustrative test. The study does not observe the deliberations of fatwa bodies; its claims concern the structure of legal reasoning, not the behavior of institutions.

FINDINGS AND DISCUSSION

This section reports the findings in the order of the research questions. The first part examines what distinguishes the two methods epistemologically and theologically

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(RQ1). The second traces the difference through four concrete cases (RQ2). The third formulates an integration model and tests it on a contemporary fatwa (RQ3). A final part discusses these findings against previous studies and states the limitations of the study.

RQ1: Epistemic and Theological Foundations of the Two Methods

The first finding concerns chronology. Neither method appeared fully formed in the second/eighth century. Al-Shafi'i (d. 204/820) laid the foundations of systematic legal theory in *al-Risalah*, whose final version was composed in Egypt, but he was not a mutakallim. Reports preserved in the Shafi'i tradition show him to be openly hostile to kalam, and G. Makdisi (1984) argues that later Shafi'i usul functioned partly as a traditionalist alternative to theological speculation. Hallaq (1993) further shows that usul al-fiqh became a coherent genre only in the fourth/tenth century. Al-Shafi'i is therefore best described as the architect of the systematic framework that the mutakallimin later developed, not as the pioneer of a theological school of jurisprudence.

The *tariqah al-mutakallimin* took shape in Baghdad, Basra and Nishapur rather than in the Hijaz. Its formative works include al-Baqillani's (d. 403/1013) *al-Taqrib wa al-Irshad*, Qadi 'Abd al-Jabbar's (d. 415/1025) *al-'Ahd*, Abu al-Husayn al-Basri's (d. 436/1044) *al-Mu'tamad*, al-Juwaini's (d. 478/1085) *al-Burhan* and al-Ghazali's (d. 505/1111) *al-Mustasfa*; their arguments were later condensed in al-Razi's *al-Mahsul* and al-Amidi's *al-Ihkam* (Hallaq, 1997; Weiss, 1992). Two facts in this list are decisive. 'Abd al-Jabbar was the leading Mu'tazili theologian of his time, and Abu al-Husayn al-Basri, a Mu'tazili and his student, wrote what became one of the most influential works of the method (Al-Basri, 1964). The *tariqah al-mutakallimin* was therefore a cross-theological enterprise shared by Ash'aris and Mu'tazilis. It did not arise as a defense against the Mu'tazila; the Mu'tazila were among its founders. The frequent claim that the method emerged in the Hijaz confuses it with the older contrast between the *ahl al-hadith* of the Hijaz and the *ahl al-ra'y* of Iraq, which concerned juristic practice rather than the construction of legal theory (Yusuf, 2016a).

The Hanafi method had a parallel history. Abu Hanifah (d. 150/767) did not write a work of usul. Early Hanafi positions on legal theory appear in responses to al-Shafi'i, notably those of 'Isa ibn Aban (d. 221/836) on the prophetic report (Bedir, 2004), and the method crystallized only with al-Karkhi (d. 340/952), al-Jassas (d. 370/981), al-Dabusi (d. 430/1039), al-Bazdawi (d. 482/1089) and al-Sarakhsi (d. c. 483/1090). These jurists drew their principles from the rulings transmitted from Abu Hanifah, Abu Yusuf and al-Shaybani, and stated principles in such a way that the inherited *furu'* remained consistent with them (A. A. Al-Bukhari, n.d.; Zysow, 2013). The judicial setting matters here. Abu Yusuf served as chief judge under Harun al-Rashid and wrote *Kitab al-Kharaj* for the caliph, so Hanafi doctrine was tested early in courts and administration (Tsafrir, 2004).

The Hanafi theory of the solitary report illustrates how this inductive origin

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translated into rules. Following 'Isa ibn Aban, Hanafi theorists accepted solitary reports as a source of law but subjected them to tests that the mutakallimin did not impose: a report on a matter of general need (*'umum al-balwa*) transmitted by a single narrator was suspect, since such a matter would have been widely known; a report contradicted by the practice of its own narrator was not acted upon; and a solitary report could not qualify a general text of the Qur'an, which Hanafi theory treats as definitive (Bedir, 2004; Zysow, 2013). Al-Shafi'i's defense of solitary reports in *al-Risalah* was directed against restrictions of this kind (El Shamsy, 2013). These criteria do not express indifference to hadith. They reflect a typology of certainty in which evidence of lesser certainty cannot override evidence of greater certainty, and they explain several of the divergences examined under RQ2.

The second finding is that both methods are rational; the claim that one protects the law from reason while the other uses it does not survive a reading of the sources. The mutakallimin employ definitions, proofs and logical classification throughout their works, and al-Ghazali (1993) opens *al-Mustasfa* with an introduction on logic that he considers a precondition of every science. The Hanafis are equally analytical, but they reason from a different starting point. The real difference lies in the direction of reasoning. The mutakallimin establish a principle first, by proof from revelation, language and reason, and then apply it to cases; a principle unsupported by proof is discarded even if it would explain established rulings. The Hanafis begin from the rulings of their imams and infer the principles that make those rulings coherent; where a principle conflicts with an inherited ruling, the principle is restated or qualified (Ibn Khaldun, 1967; Yasid, 2012).

The third finding concerns the theological premise that underlies this difference. The question of *husn* and *qubh* is not a matter of language, as it is sometimes presented, but a question of moral epistemology: can human reason know that an act is good or evil before revelation, and does such knowledge create obligation? The Mu'tazila answered that reason knows good and evil and that this knowledge already binds human beings. The Ash'aris answered that good and evil, in the sense relevant to reward and punishment, are known only through revelation. The Maturidis, whose theology was dominant among Hanafi jurists of Central Asia, took an intermediate position: reason can recognize good and evil, but legal obligation (*taklif*) depends on revelation, with Bukharan and Samarqandi Maturidis differing on how far this goes (Reinhart, 1995).

These positions shape concrete usul questions: the status of things before revelation (*hukm al-ashya' qabl wurud al-shar'*), the obligation to thank the benefactor (*shukr al-mun'im*), whether God's rulings have causes (*ta'lil al-ahkam*), and therefore the theological basis of *maslahah* (Opwis, 2010; Reinhart, 1995). Ash'ari usul defines the legal ruling as the address of God (*khitab Allah*) to the acts of the legally responsible, a definition connected to the Ash'ari doctrine of God's eternal speech; Ash'ari theorists such as al-Ghazali then had to justify the use of causes and benefits without implying that God acts for a purpose (Al-Ghazali, 1993; Vishanoff, 2011). The Maturidi position

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gives Hanafi jurists more theological room to treat recognizable benefit as relevant to law while still requiring revelation as the ground of obligation. This is the bridge between kalam and fiqh that the normative-contextual dichotomy conceals: the two methods differ in how they authorize the role of reason, not in whether they use it.

The fourth finding concerns *istihsan*. It is often defined as "a legal assessment that prioritizes benefit," but this definition is closer to *maslahah mursalah* in Maliki theory. In Hanafi usul, *istihsan* means departing from an apparent analogy (*qiyas jali*) to a hidden but stronger analogy (*qiyas khafi*), or exempting a case from a general rule because of a text, consensus, necessity or custom (Al-Sarakhsi, 1993; J. Makdisi, 1985). Abu Hanifah practiced it, but its theory was formulated by later Hanafis. Al-Shafi'i rejected it: in *al-Risalah* he describes *istihsan* as mere personal preference (*taladhdhudh*), and *al-Umm* contains a treatise on its invalidity (Al-Shafi'i, 1940, 1990). The popular slogan "man istahsana faqad shara'a" (whoever practices *istihsan* has legislated) is widely attributed to him, but it is not found verbatim in *al-Risalah* and should be cited from later usul works rather than as his words. Al-Sarakhsi, for his part, insisted that *istihsan* is not following one's desire but preferring the stronger evidence, so that the dispute is partly terminological (Al-Sarakhsi, 1993; Yusuf, 2016b). This point is important for any proposal of integration: once *istihsan* is defined technically, it becomes a disciplined form of exception that a mutakallim can scrutinize rather than a license for discretion.

RQ2: The Two Methods at Work in Four Comparative Cases

The first case is the prohibition of intoxicants. The Qur'an prohibits *khamr* (Q. 5:90), and a hadith in *Sahih Muslim* states that every intoxicant is *khamr* and every intoxicant is forbidden (Muslim, n.d., no. 2003). The majority, including al-Shafi'i, therefore did not need an analogy to extend the prohibition: the text itself is general, and some Shafi'i theorists additionally allowed names to be extended by analogy (*al-qiyas fi al-lughah*). Abu Hanifah and Abu Yusuf held that *khamr* in its lexical sense is the fermented raw juice of grapes; other fermented drinks (*nabidh*) were forbidden only in the quantity that intoxicates. Their position rested on usul rules, not on a looser attitude: the Hanafis rejected the extension of names by analogy, and they were cautious about solitary reports concerning matters of general need (*'umum al-balwa*). Al-Shaybani sided with the majority, and later Hanafi fatwa followed him (Ibn Rushd, 2004). The divergence thus originates in rules on language and on solitary reports.

The second case is guardianship in marriage. The majority, including the Shafi'is, require a guardian (*wali*) for a woman's marriage, relying on the hadiths "there is no marriage without a guardian" and "any woman who marries without her guardian's permission, her marriage is void" (Abu Dawud, n.d., nos. 2083, 2085). Abu Hanifah allowed an adult woman of sound mind to contract her own marriage, while giving the guardian a right to object where the husband is not of equal standing (*kafa'ah*) (Ibn Rushd, 2004). Two usul rules explain the Hanafi view. First, in Hanafi theory a general term of the Qur'an is definitive (*qat'i*) and cannot be specified by a solitary report;

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verses that attribute the act of marrying to women (Q. 2:230, 232) are read in their general sense. Second, the Hanafis reasoned by analogy from the woman's full capacity over her property (Zysow, 2013). Q. 2:232 is read by the majority as an address to guardians, which shows how the same verse is processed differently by two sets of hermeneutical rules. Here the Hanafi method produces the more permissive ruling.

The third case, the salam contract, shows convergence in outcome and divergence in construction. Both schools permit salam on the basis of the hadith of Ibn 'Abbas requiring a known measure, a known weight and a known term (M. I. Al-Bukhari, 2001, no. 2240; Muslim, n.d., no. 1604). The Hanafis classify it as *istihsan bi al-nass*: a departure from the analogy that forbids the sale of what does not yet exist, justified by a text, not by economic need. The Shafi'is treat it as a concession (*rukhsah*) that specifies the general prohibition of selling what one does not possess. The constructions have practical consequences. The Shafi'is permit an immediate salam, whereas the Hanafis require a deferred term and require the commodity to be available in the market from contract to delivery (Ibn Rushd, 2004). In this case the Hanafi method is the stricter one, which contradicts the assumption that it is always the more flexible.

The fourth case is the hire or lease contract (*ijarah*). For the Hanafis the only constituent element (*rukn*) of a contract is offer and acceptance (*sighah*); the parties, the usufruct and the wage are conditions or necessary concomitants, and a contract concluded by conduct (*ta'ati*) is valid. The Shafi'is list four elements: the contracting parties, the form, the usufruct and the wage, and early Shafi'is required an explicit form, although later Shafi'is accepted conduct in minor transactions. In this vocabulary the *ajir* is the party who provides the service or the leased object, and the *musta'jir* is the hirer or lessee. The difference arises from the concept of *rukn*: the Hanafis restrict it to what is internal to the essence of the act, whereas the majority count everything without which the contract cannot exist (Ibn Rushd, 2004). It cannot be explained by the contrast between induction and deduction. Table 1 summarizes the comparison.

Table 1. *Comparison of the Mutakallimin and Hanafiyah methods*

Aspect	Tariqah al-mutakallimin	Tariqah al-hanafiyyah
Direction of reasoning	Deductive: principles proven first, then applied to cases	Inductive: principles inferred from the furu' of the imams
Kalam premise on husn and qubh	Ash'ari: known only by revelation; Mu'tazili: known and binding by reason	Maturidi: knowable by reason, but obligation depends on revelation
General term vs solitary report	General term may be specified by a solitary report	General term is definitive; not specified by a solitary report
Istihsan	Rejected by al-Shafi'i as personal preference	Departure to a stronger evidence (text, consensus, necessity, custom)
Case: khamr and nabidh	Every intoxicant is khamr (hadith; some allow analogy in naming)	Khamr is grape wine; other drinks forbidden in intoxicating quantity
Case: guardian in marriage	Guardian required (hadith)	Adult woman may contract; guardian may object on kafa'ah

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Aspect	Tariqah al-mutakallimin	Tariqah al-hanafiyyah
Case: salam	Concession specifying a general prohibition; immediate salam allowed	Istihsan bi al-nass; deferred term and market availability required

Two conclusions follow from these cases. First, the divergence between the methods is located in specific and identifiable usul rules: the treatment of solitary reports, the definitive status of general terms, analogy in language, the definition of *istihsan* and the concept of *rukn*. Second, neither method is consistently more "rigid" or more "flexible". The Hanafi method is more permissive on guardianship and more demanding on salam; the mutakallimin method, through its causal reasoning, readily extends prohibitions such as that of intoxicants. The common description of the pair as normative versus contextual is therefore misleading. A more accurate description is that both are rational systems that order evidence differently, and that their outcomes depend on which rule is engaged.

RQ3: An Operational Model of Integration and Its Test Case

Combining the two methods is not new. From the seventh/thirteenth century onward, Hanafi and Shafi'i authors wrote works in the combined method: Ibn al-Sa'ati (d. 694/1295) merged al-Bazdawi's *Usul* with al-Amidi's *al-Ihkam* in *Badi' al-Nizam*; Taj al-Din al-Subki (d. 771/1370) composed *Jam' al-Jawami'*; Ibn al-Humam (d. 861/1457) wrote *al-Tahrir*; and Muhibbullah al-Bihari (d. 1119/1707) wrote *Musallam al-Thubut* (Hallaq, 1997; Trigiyatno, 2008). These works state principles with proofs in the manner of the mutakallimin and test them against school rulings in the manner of the Hanafis. Their integration, however, operates at the level of writing legal theory. They do not prescribe a sequence of steps for deciding a new case, still less for a collective body issuing a fatwa.

The model proposed here builds on that tradition but has a different aim. It converts the findings of RQ1 and RQ2 into a procedure of four stages, each of which draws on a specific strength of one of the methods and produces a documented output (Table 2). The order matters. The first stage fixes what is definitive before any appeal to context; the second places the new case within accumulated juristic practice and custom; the third tests the provisional ruling against the objectives of the law; and the fourth decides, with stated reasons, whether an exception is justified.

Table 2. *Four-stage model for integrating the two methods*

Stage	Method and operation	Documented output
1. Verification of texts and principles	Mutakallimin: identify relevant texts; apply rules on command, prohibition, general and specific terms, and the cause ('illah)	Definitive constraints and a provisional ruling

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Stage	Method and operation	Documented output
2. Contextualization through furu' and 'urf	Hanafiyah: legal characterization of the new object (takyif); analogy with established furu'; custom and need	Classification of the case and relevant precedents
3. Maqasid test	Mutakallimin tradition of maqasid (al-Juwaini, al-Ghazali): weigh benefit and harm by level of necessity, need and improvement	Assessment of benefits and harms
4. Tarjih and controlled istihsan	Hanafi istihsan in its technical sense: exception only when grounded in text, consensus, necessity or custom	Final ruling with conditions and a review clause

In an institutional setting, each stage should be recorded separately in the published reasoning of a fatwa. The record of stage one lists the texts and usul rules relied upon and states which conclusions are treated as definitive. The record of stage two states how the new object or practice has been characterized, which established rulings were used as analogues and what custom or need was considered. The record of stage three sets out the benefits and harms that were weighed and at which level of the objectives they were placed. The record of stage four states whether an exception was made, on which of the recognized grounds of *istihsan*, under which conditions and when the ruling should be reviewed. This documentation does not guarantee a correct ruling, but it allows readers, courts and other fatwa bodies to see precisely where they agree or disagree with it.

The third stage requires a clarification. The theory of *maqasid* is not a Hanafi characteristic; it was developed mainly within the mutakallimin tradition by al-Juwaini and al-Ghazali, and later systematized by the Maliki al-Shatibi (Opwis, 2005, 2010). The model places it between the Hanafi reading of practice and the Hanafi instrument of exception precisely so that *maqasid* reasoning disciplines the flexibility of *istihsan* rather than replacing it. The theological warrant for the third stage is the Maturidi position described above: reason may recognize benefit and harm, but the obligation and its limits derive from revelation, so the outcome of stage three can never override the constraints fixed in stage one.

The model differs from *tariqah al-jam'* in three respects. First, it is a procedure for deciding cases rather than a literary method of presenting theory. Second, it makes its kalam premise explicit instead of leaving theological commitments implicit. Third, it is designed for collective bodies such as DSN-MUI or the MUI fatwa commission, where the documentation of each stage allows a decision to be examined, criticized and revised.

The 2021 decision of the seventh Ijtima' Ulama of the MUI Fatwa Commission on cryptocurrency provides a test case. The decision held that the use of cryptocurrency as currency is forbidden because it contains uncertainty (*gharar*) and harm (*darar*) and

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conflicts with Indonesian currency law; that cryptocurrency as a commodity or digital asset is not valid for sale because it involves *gharar*, *darar* and gambling (*qimar*) and does not meet the requirements of a tradable object (*sil'ah*); but that cryptocurrency that meets the requirements of *sil'ah* and has an underlying asset and clear benefit may be traded (Majelis Ulama Indonesia, 2021). Critics have argued that the decision rests on rigid textual reasoning and ignores the benefits of digital assets (Sanuri et al., 2025), while others note its tension with state regulation that treats crypto assets as tradable commodities, now supervised by the Financial Services Authority under Law No. 4 of 2023 (Prabowo et al., 2025; Republik Indonesia, 2023).

Applied to this case, the model separates questions that the public debate tends to merge. In stage one, the prohibitions of *gharar* (Muslim, n.d., no. 1513) and of gambling (Q. 5:90), together with the authority of the state over currency, yield a definitive constraint: an instrument without a guarantor cannot serve as money. The first clause of the decision follows at this stage and is not affected by later stages. In stage two, the object is characterized: is a crypto asset property (*mal*)? Classical Hanafi doctrine defined property by its capacity to be possessed, but later practice and contemporary fatwa recognize intangible rights as property, and Indonesian regulation treats crypto assets as commodities. The case is therefore classified as a sale of an intangible asset, not as an exchange of currency. In stage three, the protection of property (*hifz al-mal*) cuts in both directions: speculative tokens without an underlying asset expose buyers to severe loss, while regulated assets and the underlying technology can serve legitimate needs. In stage four, an exception is justified only for assets that satisfy the *sil'ah* criteria, have an identifiable underlying asset and are traded on a supervised exchange.

The result corresponds closely to the third clause of the MUI decision. This shows that the decision already contains an implicit integrative structure, but its published reasoning does not distinguish the stages, which is why it can be read either as rigidly textual or as unduly permissive. The value of the model lies less in changing the outcome than in making the reasoning auditable: it shows which part of the ruling is fixed by text, which rests on the characterization of the object, and which is a conditional exception that should be reviewed as the market and its regulation change.

The model also shows where integration does not lead to greater permissiveness. On interfaith marriage, the Hanafis agree with the majority: a Muslim man may marry a woman of the People of the Book, and a Muslim woman may not marry a non-Muslim man. There is no distinctive Hanafi accommodation to draw on. Indonesian law went further than the classical schools: the KHI prohibits a Muslim man from marrying a non-Muslim woman and a Muslim woman from marrying a non-Muslim man (arts. 40(c) and 44), MUI declared all interfaith marriages invalid in 2005, including marriage to a woman of the People of the Book, on the basis of preventing harm, and SEMA No. 2 of 2023 instructs courts not to grant applications to register interfaith marriages (Fenecia et al., 2024; Majelis Ulama Indonesia, 2005; Mahkamah Agung Republik Indonesia, 2023; Republik Indonesia, 1991). In the terms of the model,

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stages three and four were used here to restrict a classical permission rather than to create a new one. An honest account of integration must acknowledge that it can narrow as well as widen the law.

Discussion

The main findings can be summarized in three points. The two methods are both rational and differ in the direction of reasoning and in their theological authorization of reason; their concrete divergences derive from specific usul rules rather than from a general normative or contextual temperament; and their integration is useful when it becomes a staged procedure with documented outputs.

These findings confirm the historical accounts of G. Makdisi (1984) and Hallaq (1993, 1997), who locate the crystallization of both methods in the fourth/tenth and fifth/eleventh centuries and stress the role of theology in shaping legal theory. They qualify the Indonesian literature that pairs the methods with normative and contextual approaches (Adinugraha & Ulama'i, 2020; Yasid, 2012): the cases show that the Hanafi method can be more demanding and the mutakallimin method more expansive, depending on the rule involved. They also complement recent work on *maqasid*-based reform (Azhar, 2024; Yusuf et al., 2024) and on the renewal of usul al-fiqh (Abu Bakar & Sahman, 2024) by specifying where *maqasid* reasoning should enter a decision and what it may not override. Compared with the evaluations of the cryptocurrency fatwa by Sanuri et al. (2025) and Prabowo et al. (2025), the model does not reject the decision but reconstructs its reasoning in a form that can be reviewed.

The study has several limitations. It is conceptual and does not examine how fatwa commissions actually deliberate. The primary sources were read selectively for the four coded themes, and the Maliki and Hanbali traditions, which have their own positions on *maslahah* and custom, were not analyzed. The model was tested on one contemporary case, so its usefulness for other issues remains to be shown. Practically, the findings suggest that fatwa institutions could publish their reasoning according to the stages of the model and that usul al-fiqh curricula could teach the two methods through cases of divergence rather than as opposing temperaments. Future research should examine the deliberations of DSN-MUI and the MUI fatwa commission empirically and apply the model to other issues, such as electronic money and halal certification.

CONCLUSION

This study set out to clarify what distinguishes *tariqah al-mutakallimin* and *tariqah al-hanafiyyah*, how their difference operates in practice, and how they can be integrated for contemporary Islamic law reform. On the first question, it finds that both methods are rational. The mutakallimin reason deductively from principles established by proof, while the Hanafis infer principles from the inherited rulings of their imams; behind this difference stand different kalam positions on whether reason can know good and evil, with the Ash'ari and Mu'tazili views on one side and the intermediate

Maturidi view on the other. On the second question, the cases of khamr and nabidh, guardianship in marriage, salam and ijarah show that divergence arises from specific usul rules and that neither method is consistently stricter or more flexible.

On the third question, the study proposes a four-stage model of verification, contextualization, *maqasid* testing and *tarjih* with controlled *istihsan*. The model differs from the historical *tariqah al-jam'* by functioning as a decision procedure with an explicit theological premise and documented outputs, designed for collective fatwa bodies. Its application to the 2021 MUI decision on cryptocurrency shows that it can reconstruct the reasoning of an existing fatwa and make it auditable, while its application to interfaith marriage shows that integration may restrict as well as expand classical rulings. Because the study is conceptual and tests the model on a limited number of cases, its conclusions should be examined further through empirical research on fatwa deliberation.

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Nasruddin Yusuf is the sole author and was responsible for the conception, data collection, analysis and writing of the article.

AI GENERATIVE STATEMENT

Generative AI was used to assist in restructuring and language editing of the revised manuscript. The author reviewed and verified all content, sources and citations and takes full responsibility for the article.

STATEMENT OF CONFLICT OF INTEREST

The author declares no conflict of interest.

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