

# Tahiro

Journal of Peace and Religious Moderation

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**Journal of Peace and Religious Moderation**

Volume 2 | Nomor 2 | Desember 2025  
Religious Moderation, Legal Frameworks, and Ecological Justice

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**PETUNJUK PENULISAN**

**LEGAL REASONINGCOURT RULING  
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***Abstract***

Judges as decision makers need to apply legal reasoning objectively in order to achieve justice. Weak implementation legal reasoning can produce an onvoldoende gemotiveerd decision, such as in the Banyumas District Court Decision Number 37/Pid.B/2019/PN.Bms which is considered inconsistent with the provisions of Article 363 of the Criminal Code. This study aims to determine the basis for the judge's considerations in imposing a sentence for the crime of aggravated theft and to analyze the application of legal reasoning in decision Number 37/Pid.B/2019/PN.Bms. This type of research uses normative legal research using a statutory and case approach. The results of the study indicate that the basis for the judge's considerations in imposing a sentence is in accordance with the criminal procedure law mechanism as regulated in Law Number 8 of 1981, where the judge bases the decision on at least two pieces of evidence and trial facts. The evidence in the form of witness statements, the defendant's statement, and evidence proves that the defendant Saiful Aziz is legally and convincingly guilty of violating Article 363 paragraph (1) 3, 4, and 5 of the Criminal Code. However, the judge was deemed not to have applied legal reasoning in depth because the sentence of 1 year and 2 months imposed did not reflect the severity of the elements fulfilled or the aggravating circumstances proven based on the facts in the trial.

**Keywords:** Legal Reasoning, Court Decision, Crime of Aggravated Theft

***Abstrak***

Hakim sebagai penentu putusan perlu menerapkan legal reasoning secara objektif demi tercapainya keadilan. Lemahnya penerapan legal reasoning dapat menghasilkan putusan onvoldoende gemotiveerd, seperti pada Putusan Pengadilan Negeri Banyumas Nomor 37/Pid.B/2019/PN.Bms yang dinilai tidak sejalan dengan ketentuan Pasal 363 KUHP. Penelitian ini bertujuan untuk mengetahui dasar pertimbangan hakim dalam menjatuhkan pidana terhadap tindak pidana pencurian dengan pemberatan serta menganalisis penerapan penalaran hukum dalam putusan Nomor 37/Pid.B/2019/PN.Bms. Jenis penelitian ini menggunakan penelitian hukum normatif dengan menggunakan pendekatan perundang-



undangan dan kasus. Hasil penelitian menunjukkan bahwa dasar pertimbangan hakim dalam menjatuhkan pidana telah sesuai dengan mekanisme hukum acara pidana sebagaimana diatur dalam Undang-Undang Nomor 8 Tahun 1981, dimana hakim mendasarkan putusan pada sekurang-kurangnya dua alat bukti serta fakta-fakta persidangan. Alat bukti berupa keterangan saksi, keterangan terdakwa, dan barang bukti membuktikan bahwa terdakwa Saiful Aziz secara sah dan meyakinkan bersalah melanggar Pasal 363 ayat (1) ke-3, 4, dan 5 KUHP. Namun, hakim dinilai tidak menerapkan legal reasoning secara mendalam karena pidana 1 tahun 2 bulan yang dijatuhkan tidak mencerminkan beratnya unsur yang terpenuhi maupun keadaan memberatkan yang terbukti berdasarkan fakta dalam persidangan.

**Kata Kunci:** Legal Reasoning, Putusan Pengadilan, Tindak Pidana Pencurian dengan Pemberatan

## INTRODUCTION

Law enforcement institutions in Indonesia consist of the police, prosecutors, lawyers, and judges. However, within these law enforcement institutions, judges play a very central role, as they are the ones who have the authority to decide a case, determining who is right and who is wrong. In the Indonesian judicial system, judges are the primary decision-makers in a court case. Judges can be seen as the personification of the law, and therefore have an obligation to guarantee a sense of justice for every justice seeker through the legal process in court.(Taqiuddin, 2019).

Judges are the personification of the judicial institution, acting as the mouthpiece of the law, carrying out a heavy mandate. In making decisions, judges are required not only to possess intellectual abilities, but also to possess high morals and integrity, as well as strong communication skills, thereby demonstrating their authority in resolving legal cases before the public. To achieve justice and optimal law enforcement, the courts, as the primary pillar of law enforcement, through the role of judges as primary actors, are required to maintain integrity, hone their conscience, and demonstrate professionalism in carrying out their duties.(Jimly Asshidiqie, 2014). In addition, judges in deciding a case must base their decisions on various considerations that are acceptable to all parties and must not deviate from existing legal rules, which is known as legal reasoning.

Legal reasoning is closely related to a judge's primary duty, which is to receive, examine, adjudicate, and resolve every case submitted to him. Judges are essential for decision-making in the disputes they examine and adjudicate. Judges in criminal cases must be able to process and process evidence obtained during the trial, including witness testimony, expert testimony, letters, instructions, and testimony from the defendant.(Soesilo, 2008). So that the decision to be handed down to the accused can be based on a sense of responsibility, justice, wisdom, professionalism and be objective.

Judges will always consider many factors when making a decision on a case presented before them. In considering these factors, the judge's reasoning and logic are required to connect all the facts presented.(Ahmad Sofian, 2018)Court decisions will have a humanitarian dimension if they are based on the principles of equality before the law and the presumption of innocence, because these two principles embody human rights values that must be protected and adhered to by law enforcement officials, especially judges authorized to decide cases. Court decisions are important milestones in reflecting justice, including court decisions in the form of sentencing and sentencing.

In carrying out their duties, a judge must possess sound reasoning in examining and providing sufficient consideration. This requires a process of legal reasoning. Legal reasoning, in this case, is the search for "reasons" regarding the law or the basis for how a judge decides a legal case. However, due to a lack of understanding of legal reasoning, judges' decisions are often considered *Onvoldoende Gemotiveerd*, that is, decisions that are considered imperfect. The imperfect judge's decision in question is a decision that does not carefully consider all the facts relevant to the case in question.(Atmaja, 2021).

One example of a case contained in the Banyumas District Court decision Number 37/Pid.B/2019/PN.Bms, where the defendant, Saiful Aziz, was proven and declared guilty of committing the crime of aggravated theft as stipulated in Article 363 of the Criminal Code. However, the defendant Saiful Aziz was sentenced to 1 year and

2 months in prison.(Decision of the Supreme Court of the Republic of Indonesia Banyumas District Court Number: 37/Pid.B/2019/PN.Bms, 2019). The sentence imposed on the defendant Saiful Aziz is still considered insufficient if it is based on the number of prison sentences contained in Article 363 of the Criminal Code, even though in the decision the defendant Saiful Aziz was legally and convincingly proven guilty of committing the crime of theft under aggravating circumstances.

## **METHOD**

This research is a normative type of research, namely research that focuses on studies of the opinions of legal experts and relevant laws and regulations.(Amiruddin and Zainal Asikin, 2018)This research focuses on discussing the basis of the judge's considerations in sentencing aggravated theft and the application of legal reasoning in decision Number 37/Pid.B/2019/PN.Bms. The approaches used include the statutory approach and the case approach. The statutory approach is used to examine various legal provisions governing the crime of theft. While the case approach is used to find out and understand the judge's considerations in deciding the decision, especially in the example of the case of decision Number 37/Pid.B/2019/PN.Bms.

The legal materials used consist of primary, secondary, and tertiary legal materials. Primary legal materials include relevant laws and regulations, secondary legal materials in the form of books, journals, and opinions of legal experts, while tertiary legal materials are used to explain legal terms related to this research. The legal material collection technique is carried out through library studies by exploring various legal sources and relevant literature. All legal materials obtained are then analyzed using qualitative descriptive methods, by describing and interpreting legal provisions to obtain a clear understanding of the basis for the judge's considerations in sentencing the crime of aggravated theft and the application of legal reasoning in decision Number 37/Pid.B/2019/PN.Bms.

## RESULTS AND DISCUSSION

### The Judge's Considerations in Sentencing the Crime of Aggravated Theft (Decision Study Number: 37/Pid.B/2019/PN.Bms)

A judge's decision is closely related to how the judge expresses his or her opinion or considerations based on the facts and evidence presented in court, as well as the judge's conviction in a case. Therefore, the judge plays a central role in handing down a court decision. A court decision must include considerations regarding aggravating and mitigating factors. These factors will then be taken into account by the judge in issuing his or her decision, whether it be a conviction, acquittal, or acquittal.

Below are some of the judge's considerations in Decision Number: 37/Pid.B/2019/PN.BMS based on the testimony of witnesses and the defendant, in conjunction with the evidence presented at trial. The panel of judges obtained the following legal facts:

1. That the defendant Saiful Aziz alias Trisman has been proven to have committed the crime of aggravated theft.
2. That the defendant was proven to have caused the victim a loss of Rp. 6,000,000 (six million rupiah).
3. That the defendant has violated the provisions set out in Article 363 paragraph (1) 3, 4 and 5 of the Criminal Code.

Based on these legal facts, the panel of judges can find the defendant guilty of committing a crime as regulated in Article 363 paragraph (1) 3, 4 and 5 of the Criminal Code by considering the elements of the Article charged. The elements of Article 363 paragraph (1) 3, 4 and 5 of the Criminal Code include the following:

- a. Whoever:

The public prosecutor has brought the defendant Saiful before the court and based on the testimony of witnesses and the defendant's statement, it can be concluded that the person brought before the court is the person referred to by the public prosecutor according to the identity stated in the indictment, thus the element of "whoever" has been fulfilled.

b. Taking something that belongs wholly or partly to someone else:

The facts revealed in the trial, it was known that the defendant and witness Aji had taken goods without permission on Monday, January 8, 2019 at approximately 02.30 WIB, at a welding workshop located in Sokaraja Wetan Village Rt. 01 Rw. 05 Sokaraja District, Banyumas Regency. It started with witness Aji inviting the defendant to take someone else's bird and the defendant agreed then by riding a Honda Vario Techno 150 motorbike, brown color No. Pol. R--5828-VG the defendant and witness Aji looked for the target house in the direction of Sokaraja Wetan Village Wetan Rt. 01 Rw. 05 Sokaraja District, Banyumas Regency, when passing by a house belonging to witness Sarwono, the defendant saw a black Honda Revo motorbike No. Pol. R2668-HH and told witness Aji to take the motorbike. Then witness Aji and the defendant approached the motorbike which happened to not have the handlebars locked, then the defendant took the motorbike which was parked in front of the repair shop by leading the motorbike out then the defendant got on the motorbike pushed from behind by witness Aji using the motorbike towards the west.

Based on these facts, the panel of judges believes that the defendant has taken an item that is wholly or partially owned by another person, namely by moving an item in the form of 1 (one) black Honda Revo motorcycle with the number plate R-2668-HH belonging to witness Sarwono. Thus, this element is fulfilled.

c. With the intent to possess unlawfully

The facts revealed in the trial, it was known that after that the motorcycle's license plate was removed and spray-painted so that it would not be recognized by the owner, namely witness Suwarno, then the defendant posted the motorcycle on the Facebook buying and selling forum, and in February 2019 the motorcycle was sold for Rp. 1,200,000 (one million two hundred thousand rupiah) and the money had been used for the defendant's personal needs.

Based on the above facts, the panel of judges is of the opinion that the defendant's intention in taking witness Sarwono's property was to own it himself. The

defendant took the item without the owner's permission, thus the panel of judges believes that the defendant attempted to possess the item unlawfully, therefore this element has been proven.

- d. It is done at night in a house or enclosed yard where there is a house.

The facts revealed in the trial, it was known that the defendant and witness Aji had taken goods without permission on Monday, January 8, 2019 at around 02.30 WIB, at the welding workshop located at Sokaraja Wetan Village Rt. 01 Rw. 05 Sokaraja District, Banyumas Regency. The time the defendant committed the act was not from sunrise to sunset, so it was at night, the house was a closed house, there was no permission from the owner of the house therefore the element "done at night in a house or closed yard where there is a house", has been fulfilled.

- e. Done by two or more people in alliance

The facts revealed in the trial, it was known that the defendant together with witness Aji took goods without permission on Monday, January 8, 2019 at approximately 02.30 WIB, at a welding workshop located at Sokaraja Wetan Village Rt. 01 Rw. 05, Sokaraja District, Banyumas Regency. Based on these facts, the panel of judges believes that the element of "carried out by two or more people in collusion" has been fulfilled.

- f. Done by damaging, cutting or climbing or by using fake keys, fake orders or fake official clothing.

The facts revealed at trial revealed that the defendant took the items by climbing over a fence. Based on the facts revealed at trial, the panel of judges believed that climbing was the method of accessing the items, and therefore, this element was met.

Furthermore, the panel of judges also considered several pieces of evidence presented at the trial as follows:

- 1) 1 (one) unit of Honda brand motorbike, Vario Techno type, No. Pol R-58828-VG, brown color, Noka: MH1KF1110GK554894, Nosin: KF11E-1557725 along with motorbike STNK in the name of Hadminah.

2) 1 (one) number plate R-2668-HH, 1 (one) STNK No. Pol R-2668-HH in the name of Restunia Rerdanawati which was confiscated from witness Restunia Perdanawati

In addition to considering the elements of the article and the evidence presented at trial, the judge also considered aggravating and mitigating circumstances. Aggravating circumstances include the defendant's actions causing public disturbance. Mitigating circumstances include:

- a. The defendant was polite during the trial.
- b. The defendant admitted frankly and regretted his actions and promised not to repeat his actions.
- c. The defendant has never been convicted.
- d. The victim's motorbike has been replaced by witness Aji.

Based on the description of the judge's considerations in Decision Number 37/Pid.B/2019/PN.Bms, it appears that the panel of judges has systematically assessed the elements of Article 363 paragraph (1) 3, 4, and 5 of the Criminal Code by linking witness statements, the defendant's confession, and the evidence presented at trial. Each element of the crime, starting from the fulfillment of the identity of the perpetrator (whoever), the act of taking someone else's property, the intention to possess it unlawfully, carried out at night, carried out in association, to the method of carrying out the act through aggravating elements, has been proven through legal facts and is considered legally and convincingly proven. In addition, the judge also considered aggravating and mitigating circumstances to assess the proportionality of the sentencing. However, based on the depth of proof of the elements of the crime and the position of aggravating circumstances, the space for a more comprehensive application of legal reasoning is actually still open so that the decision better reflects a sense of substantive justice.

Although the elements of the crime of aggravated theft have been fully proven and the evidence presented supports the judge's conviction in Decision Number 37/Pid.B/2019/PN.Bms above, the relatively light sentence indicates a weakness in the in-depth legal argumentation. The panel of judges should be able to provide a

stronger and more measured justification regarding the reasons for the punishment so that the decision is in line with the principle of proportionality and provides a deterrent effect for both the perpetrator and the community. Therefore, in-depth legal reasoning is essential to avoid the judgment being viewed as onvoldoende gemotiveerd and to emphasize the consistency of the fair and balanced application of criminal law.

***Legal ReasoningCourt Decision on the Crime of Aggravated Theft (Study Decision Number: 37/Pid.B/2019/PN.BMS)***

Judges play a crucial role in resolving legal issues that arise in society, particularly those resolved through legal channels through the trial process. Judges are the symbol of the judicial institution, empowered to uphold the law. Judges must be able to resolve these legal issues by upholding the values of truth through their adopted paradigm. To ensure these values are realized in law enforcement, before a judge renders a verdict, a judge must verify the facts and events, as well as the evidence presented by the parties in the trial, to uncover concrete facts or events that guide the judge's belief in the truth.(Atmaja, 2021).

Before deciding a case, the judge must pay attention to matters that are considered both legally and outside the legal provisions in order to find the truth and create justice. In accordance with the principle of criminal acts without fault (geen straf zonder schuld), which means that a sentence can only be imposed if there is a defendant's fault that is proven in court, namely the defendant's fault as referred to in the public prosecutor's indictment.(Tifani Dianisa Mayaratri, 2020).

A judge in imposing a sentence on a defendant if the defendant is guilty of committing the criminal act charged against him and must be supported by valid evidence in accordance with the formulation of Article 184 paragraph (1) of the Criminal Procedure Code which is known as valid evidence including, witness statements, expert statements, letters, instructions, and the defendant's statement. So in a case decided by a judge, in addition to requiring at least two pieces of evidence as stated above, another very important thing is also required, namely the judge's

belief in a case that will be decided based on the facts obtained in the trial.(Andi Hamzah, 1985).

The case decided by the Banyumas District Court with decision Number: 37/Pid.B/2019/PN.BMS above, if analyzed, the chairman of the panel has indeed paid attention to all the facts revealed in the trial, the facts revealed are in the form of evidence contained in Article 184 of the Criminal Procedure Code as stated above. The evidence submitted by the Prosecutor in decision Number: 37/Pid.B/2019/PN.BMS above is in the form of witness statements, defendant statements, and evidence which are essentially as follows:

1. Witness testimony

The witnesses presented by the Public Prosecutor to prove the guilt of the defendant Saiful Aziz are 3 (three) witnesses, namely witness Aji Sulistio, who together with the defendant took the motorbike, witness Restunia Perdanawati and witness Sarwono, who was the witness who lost the motorbike on Monday, January 8, 2019 in front of the welding workshop located at Sokaraja Wetan Village Rt. 01 Rw. 05 Sokaraja District, Banyumas Regency. All of these witnesses, before giving their testimony, were sworn in before the court according to their respective religions and beliefs.

2. Defendant's Statement

The statement of the defendant Saiful Aziz which was delivered before the court regarding the accusations that had been indicted against him had admitted all his mistakes and the criminal acts he had committed that it was true that the defendant on Monday, January 8, 2019 at around 02.30 WIB had taken a motorbike without permission which was parked in front of the workshop by leading the motorbike out of the gate then the defendant got on the motorbike by being stepped on or pushed from behind by witness Aji using the motorbike towards the west.

3. Evidence

The evidence submitted was 1 (one) Honda Vario Techno motorbike, No. Pol: R-5828-VG brown, Noka: MH1KF1110GK554894, Nosin: KF11E-1557725, along with the motorbike's STNK a. n Hadimah and key, 1 (one) number plate R-2668-HH, 1 (one) STNK No. Pol: R-2668-HH a. n Restunia Perdanawati.

The evidence presented above is the basis for the judge to decide the case. In addition, the judge has also seen the elements contained in the criminal act committed by the defendant Saiful Aziz, where all elements of the Article charged by the public prosecutor have been fulfilled, namely Article 363 of the Criminal Code. In addition, the judge has also considered the aggravating and mitigating factors for the defendant. The aggravating factor for the defendant in the above decision is that the defendant's actions disturbed the community. Meanwhile, the mitigating factors for the defendant include:

- a. The defendant was polite during the trial.
- b. The defendant admitted frankly and regretted his actions and promised not to repeat his actions.
- c. The defendant has never been convicted.
- d. The victim's motorbike has been replaced by witness Aji.

From the description that the author has presented above in relation to decision Number: 37/Pid.B/2019/PN.BMS, in which decision the defendant Saiful Aziz alias Trisman was proven guilty of committing the crime of aggravated theft as regulated in the provisions of Article 363 paragraph (1) 3, 4 and 5 of the Criminal Code and the defendant was sentenced to 1 year and 2 months in prison by reducing the period of arrest and detention from the sentence imposed on the defendant.

According to the author's analysis, the sanctions given to the defendant Saiful Aziz alias Trisman are still very inadequate. Because the defendant was clearly found guilty of committing the crime of aggravated theft as regulated in the provisions of Article 363 paragraph (1) 3, 4 and 5 of the Criminal Code and all the elements contained in the provisions of the Article have been fulfilled. So the judge in deciding the case only tends to look at non-juridical considerations, namely only looking at the

mitigating factors for the defendant. Whereas the judge in formulating and compiling legal considerations must be careful, namely it must be complete, containing facts of the event, legal facts, formulation of legal facts, application of legal norms both in positive law, customary law, jurisprudence and legal theories used as arguments (reasons) or legal basis in the judge's decision.

The application of a prison sentence to defendant Saiful Aziz alias Trisman in the decision Number: 37/Pid.B/2019/PN.BMS above, according to the author's perspective, is that the judge did not conduct in-depth legal reasoning. Judges, in making decisions in accordance with the law and the public's sense of justice, must also decide cases based on their conscience. The voice of conscience in question is a voice of conscience for the benefit of the wider community, not for the judge's own personal interests or to protect the interests of certain individuals with access to power. In order to uphold truth, justice, and legal certainty, judges must not be prisoners of the law alone.(Galang Asmara, 2010)This is where in-depth legal reasoning is needed. Law enforcement must truly utilize legal reasoning in decision-making. If judges or law enforcement officers fail to utilize legal reasoning, their decisions will be irrational and even undermine the very foundations of law enforcement and justice.(Ni Luh Putu Vera, 2016).

## **CONCLUSION**

The judge's basis for considering sentencing aggravated theft (study of decision number: 37/Pid.B/2019/PN.Bms) is in accordance with the provisions of the law as stipulated in Law Number 8 of 1981 concerning Criminal Procedure. In deciding a case, the judge requires at least two pieces of evidence, such as witness statements, the defendant's statement, and other evidence. The evidence and facts revealed in the trial, the defendant Saiful Aziz was legally and convincingly proven guilty of committing the crime of aggravated theft in violation of Article 363 paragraph (1) 3, 4 and 5 of the Criminal Code. However, in decision number: 37/Pid.B/2019/PN.Bms above, the judge did not conduct in-depth legal reasoning on the case of Decision

Number: 37/Pid.B/2019/PN.BMS above. The defendant was only given a prison sentence of 1 year and 2 months, even though all the elements contained in the provisions of Article 363 paragraph (1) 3, 4 and 5 of the Criminal Code that were violated had been fulfilled. In addition, the evidence submitted based on the facts of the trial had also been submitted.

Judges are expected to apply legal reasoning more comprehensively and argumentatively in every decision-making process, so that the legal considerations provided do not lead to judgments that are considered onvoldoende gemotiveerd. A more in-depth application of legal reasoning will be able to reflect the proportionality between the defendant's guilt, the proven aggravating factors, and the sentence imposed. Furthermore, capacity building and ongoing training are needed for judges in applying systematic legal analysis methods based on substantive justice values.

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## PRENUPTIAL AGREEMENT: BETWEEN A RATIONAL NECESSITY OR A LACK OF CONFIDENCE IN MARITAL LIFE?

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### **Abstract**

This study originates from the central research question as well as the primary objective, namely examining whether a prenuptial agreement is formulated as a rational necessity in navigating the dynamics of marriage or instead reflects a lack of confidence and trust within marital life. To address this focus, the research employs a literature review method with a qualitative approach, gathering journal articles and credible academic sources from Google Scholar, Scopus, ResearchGate, Garuda, and DOAJ. All data were analysed descriptively and analytically to map how the literature interprets the motivations behind the emergence of prenuptial agreements. The findings indicate that a prenuptial agreement cannot be categorised solely as either a necessity or an indication of distrust, but rather as a neutral legal instrument whose meaning is shaped by the couple's context. From the perspective of necessity, this instrument becomes relevant when there are significant differences in asset ownership, economic complexity, or the need for legal certainty regulated through provisions such as the Civil Code, the Marriage Law, and Constitutional Court decisions. However, the literature also shows that its formulation may be triggered by emotional anxiety, past trauma, or fear of relationship failure, thus reflecting a limited sense of security and confidence in marital life. The scientific contribution of this study lies in its more focused explanation of the ambivalence surrounding the meaning of a prenuptial agreement, specifically whether it functions as a rational planning measure or instead mirrors internal doubt, while enriching previous studies that predominantly emphasised juridical normative, legal formal, as well as social and cultural dynamics.

**Keywords:** *Prenuptial Agreement, Necessity, Marital Confidence*

### **Abstrak**

Penelitian ini berangkat dari pertanyaan riset utama sekaligus tujuan pokok, yaitu menelaah apakah perjanjian pranikah dirumuskan sebagai suatu kebutuhan rasional dalam menghadapi dinamika perkawinan atau justru mencerminkan kurangnya keyakinan dan kepercayaan dalam kehidupan rumah tangga. Untuk menjawab fokus tersebut, penelitian ini



menggunakan metode tinjauan pustaka dengan pendekatan kualitatif, menghimpun artikel jurnal dan sumber akademik kredibel dari Google Scholar, Scopus, ResearchGate, Garuda, dan DOAJ. Seluruh data dianalisis secara deskriptif dan analitis untuk memetakan bagaimana literatur menafsirkan motivasi di balik munculnya perjanjian pranikah. Temuan penelitian menunjukkan bahwa perjanjian pranikah tidak dapat dikategorikan semata-mata sebagai kebutuhan ataupun indikasi ketidakpercayaan, melainkan sebagai instrumen hukum yang netral, yang maknanya dibentuk oleh konteks pasangan. Dari perspektif kebutuhan, instrumen ini menjadi relevan ketika terdapat perbedaan signifikan dalam kepemilikan aset, kompleksitas ekonomi, atau kebutuhan akan kepastian hukum yang diatur melalui ketentuan seperti Kitab Undang-Undang Hukum Perdata, Undang-Undang Perkawinan, serta putusan Mahkamah Konstitusi. Namun, literatur juga menunjukkan bahwa perumusannya dapat dipicu oleh kecemasan emosional, trauma masa lalu, atau ketakutan akan kegagalan hubungan, sehingga mencerminkan keterbatasan rasa aman dan keyakinan dalam kehidupan perkawinan. Kontribusi ilmiah dari penelitian ini terletak pada penjelasan yang lebih terfokus mengenai ambivalensi makna perjanjian pranikah, khususnya apakah ia berfungsi sebagai langkah perencanaan rasional atau justru mencerminkan keraguan internal, sekaligus memperkaya kajian-kajian sebelumnya yang lebih banyak menekankan dinamika yuridis normatif, hukum formal, serta sosial dan budaya.

**Kata Kunci:** *Perjanjian Pranikah, Kebutuhan, Keyakinan dalam Perkawinan*

## INTRODUCTION

Prenuptial agreements are legal instruments that have increasingly gained attention within Indonesian legal discourse because they provide legal certainty regarding the separation of assets and the regulation of rights and obligations between spouses prior to marriage. In the study conducted by Esti Royani et al., it is explained that such agreements may include arrangements concerning shared profits and losses as well as asset separation, provided that they are made consciously and in accordance with the couple's values (Royani, Nortjahjo, Sobirov, & Triana, 2024). Meanwhile, Asmuliadi Lubis demonstrates that although prenuptial agreements are often considered taboo within Eastern cultures, they remain relevant in Islamic law so long as they do not contradict religious norms, even when expressed only orally (Lubis, 2023). Research by Muhammad Amri Pratama et al. further affirms that prenuptial agreements offer couples the flexibility to establish financial and property regulations beyond the provisions of general marriage law (M. A. Pratama, Zega,

Muhdiya, Butar, & Maylafaiza, 2024). In a similar study, Sugih Ayu Pratitis and Rehulina emphasise the importance of the formal validity of such agreements, which must be set out in an authentic deed before a notary in order to possess legal force (Pratitis & Rehulina, 2023).

Furthermore, the study conducted by Ferry Irawan Febriansyah et al. explains that prenuptial agreements function as legal protection for the personal rights of couples before marriage, which are often constrained by cultural stigma that perceives marriage as a sacred union without space for legal arrangements (Ferry Irawan Febriansyah, Alfalachu Indiantoro, & Wafda Vivid Izziyana, 2021). This perspective is reinforced by the research of Rosita et al., which underscores the urgency of prenuptial agreements in safeguarding pre-marital assets and preventing unhealthy marital motivations, particularly among couples with high financial risk such as politicians or entrepreneurs (Rosita, Novitasari, & Zainuddin, 2022). In the international context, Siddhi Suman and Udayasimha NG highlight the dynamics in India, where family courts have begun encouraging the legalisation of prenuptial agreements as mandatory contracts, in line with shifting views among younger generations who increasingly perceive marriage as contractual rather than sacred (Siddhi Suman & Udayasimha NG, 2024). The study of Ivanova Elena V et al. expands this understanding by classifying prenuptial agreements as valid civil law transactions rather than ordinary marital contracts because they possess characteristics of bilateral agreements recognised within civil law (Ivanova Elena V, Perepelkina Natalia V, & Semenova Nadezhda V, 2022).

Based on the preceding studies, it can generally be observed that they have addressed the issue of prenuptial agreements from normative juridical, legal formal, and socio-cultural perspectives. Most emphasise these agreements as instruments of legal protection for assets, rights, and obligations of couples within both civil law and Islamic law contexts. Other studies have also begun to explore societal resistance to such agreements, which are often viewed as contradictory to cultural values and the perceived sanctity of marriage. Meanwhile, international research broadens the scope

by comparing the acceptance of prenuptial agreements across foreign legal systems and examining their broader potential application. However, the psychological and emotional dimensions, particularly regarding the underlying motives, have not yet become a primary focus. This raises the fundamental question of whether these agreements emerge as a necessity for addressing the complexities of marital life or instead reflect doubt and diminished confidence in forming a marital union.

In response to this question, the present study aims to examine directly whether prenuptial agreements are drafted as a necessity for regulating essential aspects of domestic life or whether they arise as indicators of limited confidence in the continuity of the relationship. Through this objective, the study provides a scholarly contribution by offering a more focused explanation of how prenuptial agreements are understood and interpreted in relation to marital trust, thereby clarifying whether such instruments represent a rational planning measure or a reflection of fundamental doubt at the outset of marriage.

## **METHOD**

This study is structured using a library research method as its principal approach. The selection of this method is not incidental but constitutes a methodological step that is relevant to the nature of the problem being addressed. A library-based approach provides a strong argumentative foundation for tracing how academics, legal practitioners, and previous researchers have interpreted prenuptial agreements from various perspectives, while also enabling this study to identify conceptual gaps that have not been adequately discussed in earlier scholarship.

Within this framework, the study employs a qualitative research design because its focus does not lie in the quantification of data but in the exploration of meaning, patterns of thought, and forms of argumentation that shape perspectives on prenuptial agreements. The qualitative approach allows the researcher to interpret more deeply the relationship between legal norms, psychological dynamics, and socio-cultural values as reflected in a range of literature sources. In addition, this

approach is relevant to the interpretative nature of the research focus, namely examining whether the formulation of prenuptial agreements is viewed more as a rational necessity or as an indication of doubt in entering married life.

In line with this requirement, the study formulates a single yet multidimensional research question: "Are prenuptial agreements a necessity or an expression of limited marital confidence?" This guiding question serves as the primary compass that directs the process of locating, selecting, and evaluating the relevant literature. Consequently, all methodological steps undertaken do not merely function to collect information but also to select sources that are pertinent to explaining how this legal instrument is understood, practised, and assessed by various social groups and previous scholars. To answer this research focus, the study gathers data from various written sources, particularly reputable scientific journal articles and other official websites. The use of diverse sources is also necessary because this research problem concerns not only formal legality but also the ways in which couples perceive security, trust, and emotional preparedness in marriage.

Furthermore, data were obtained from various academic online databases such as Google Scholar, ResearchGate, Scopus, Garuda Ristekbrin, DOAJ, and other relevant official platforms. The availability of these platforms enables the researcher to trace recent publications, including articles that specifically examine the dimensions of prenuptial agreements. By broadening the range of sources, the study is able to capture a more comprehensive picture of how prenuptial agreements are debated both locally and globally, as illustrated in the background section of the article which shows differing societal acceptance of this instrument.

Once all data had been compiled, the processing stage was carried out using a descriptive analytical technique. The descriptive stage was used to present the findings from the literature in a systematic manner. This stage is essential for helping readers understand the epistemological context underlying the discussion. The analytical stage, on the other hand, was used to interpret these findings so that they may clarify whether the tendency to formulate prenuptial agreements is driven more

by objective necessity or by subjective doubt on the part of couples. In this way, the method does not simply present information from various sources but connects them critically in order to generate new insights that are consistent with the findings of the study.

To ensure a more targeted literature search, this study employed keywords aligned with the main theme, such as "prenuptial agreement", "perjanjian pra-nikah", "marital trust", "marital needs", "relationship doubt", "couple psychology", and other relevant terms. The use of these keywords is designed to capture the variations in terminology used within academic discourse. Besides preventing interpretative errors, this strategy ensures that the collected literature genuinely supports the argument concerning the ambivalence of prenuptial agreements as instruments of necessity and potential reflections of distrust.

Through this methodological framework, the study establishes a sound scientific foundation for examining the issue of necessity and confidence in the drafting of prenuptial agreements. The combination of a library-based approach, qualitative analysis, and careful selection of literature enables the reconstruction of research findings in a logical and coherent manner.

## **RESULTS AND DISCUSSION**

### **Legal Basis of Prenuptial Agreements**

Prenuptial agreements in Indonesia possess a clear legal foundation that can be identified across several regulatory instruments. Their primary basis is set out in Article 29 of the Indonesian Civil Code, which provides room for prospective husbands and wives to establish agreements concerning property, so long as such agreements do not contravene the law, religion, or morality. This provision is further reinforced by Law Number 1 of 1974 on Marriage, particularly following its amendment through Law Number 16 of 2019, in which Article 29 paragraph (1) reiterates that prenuptial agreements may be made before or at the time the marriage is concluded (M. A. Pratama et al., 2024). The technical regulation of this matter is further clarified by

Constitutional Court Decision Number 69/PUU-XIII/2015, which expands the scope of prenuptial agreements so that they are no longer confined solely to matters of property but may also include other forms of agreement provided that they do not contradict fundamental legal principles (Abigail & Abdulilah, 2019).

With this robust legal basis, as regulated in the Civil Code, the Marriage Law, and reaffirmed through the decision of the Constitutional Court, prenuptial agreements can no longer be regarded as merely private arrangements lacking formal legitimacy. Instead, they have evolved into legal instruments fully recognised by the state and endowed with binding legal force. This degree of legality confirms that prenuptial agreements occupy a strategic position as mechanisms that can assist prospective couples in planning their married life in a more structured, transparent, and preventive manner, particularly in relation to the organisation of property, the distribution of responsibilities, and the anticipation of potential risks that may arise in the future.

### **Between Necessity or Insufficient Confidence in Building a Household?**

A prenuptial agreement is essentially a contract formulated by two individuals who are about to enter into marriage with the intention of regulating certain aspects that are considered important and potentially problematic in the future (W. A. Pratama, 2025). The matters arranged may include the separation or consolidation of assets, the management of specific property, the division of responsibilities, and other jointly agreed provisions, provided that they do not conflict with positive legal norms (Utami et al., 2025). This instrument offers space for couples to establish legal certainty regarding areas that may generate differing interpretations once they begin their married life.

However, when a prenuptial agreement is presented as one of the options in preparing for marriage, an equally important question arises. It concerns whether the formulation of such an agreement genuinely stems from a rational need or instead reflects a lack of confidence in building a marital life founded on trust. These two perceptions move side by side and may become the basis for differing assessments of

the same instrument. Some parties may interpret it as a form of anticipation, while others view it as an indication of excessive caution.

To address these two perceptions, it is important to first examine the fundamental nature of the marital relationship itself. Marriage brings together two individuals who possess life experiences, economic conditions, ways of thinking, and value structures that are not always uniform (Tajuddin & Soleh, 2024). Even when an emotional bond has been firmly established, these differences still have the potential to become sources of friction once living together begins. A prenuptial agreement emerges as a response to these potential points of tension by offering a legal mechanism that can regulate sensitive matters before conflict arises (Hulukati, 2024). From this perspective, the instrument is understood as a means to prevent uncertainty.

The same approach can be observed among couples who have significant differences in the ownership or management of property. When one party owns a private business, family assets, intellectual property, digital assets, or other forms of property that require specific technical arrangements, a prenuptial agreement can help ensure that these assets are protected and clearly managed (Indira & Meylina, 2025). In such circumstances, the drafting of a prenuptial agreement does not merely reflect a lack of trust, but rather a desire to create order, transparency, and balance within the household that will be established.

Beyond economic and asset-related considerations, psychological factors also play a role. For some individuals, clarity regarding rights and obligations before marriage provides a sense of security that supports emotional stability. When both parties are able to discuss sensitive topics openly, the process strengthens communication and fosters awareness that a household cannot be built solely on feelings but also requires thoughtful planning (Lisa Zeiderman Esq, 2025). From this perspective, a prenuptial agreement is understood not as a form of suspicion but as an effort to organise shared life in a more realistic manner.

However, these psychological factors are not always positive. Some individuals are inclined to draft a prenuptial agreement not because of an objective need, but due to internal anxieties that are not rooted in the actual dynamics of the relationship. Worries about relationship failure, past trauma, or an exaggerated imagination of negative scenarios may lead someone to feel the need to install legal safeguards before beginning married life. In this context, a prenuptial agreement may become an instrument for managing fear rather than a tool for establishing certainty (Margulies, 2003). When the motivation is solely defensive, the agreement may create an unhealthy relational dynamic because it is not grounded in full trust.

Another aspect that influences perceptions of prenuptial agreements is the social and cultural environment surrounding the couple. In certain communities, discussions regarding property, assets, or the division of roles are still considered taboo or inappropriate to address before marriage. Such social norms may cause a prenuptial agreement to be viewed as unethical or inconsistent with moral values (Lubis, 2023; Niswah, 2025). Conversely, in other communities, transparency and planning are regarded as signs of maturity, which leads to the acceptance of prenuptial agreements as a reasonable measure (Hulukati, 2024). This pattern shows that the interpretation of legal instruments does not stand alone but is shaped by the value structures embedded within society.

In responding to the diverse motivations and perceptions described above, a prenuptial agreement must be understood as a neutral legal instrument. It cannot be absolutely labelled as either driven by necessity or as an indication of distrust, because both motivations may arise in different contexts. What requires attention is how couples construct the communication process when considering the use of this instrument. If discussions are conducted honestly, openly, and with an orientation towards balance, a prenuptial agreement can serve as a tool for strengthening transparency. However, if the communication process is marked by discomfort or pressure, the instrument may generate psychological unease that ultimately reduces the quality of the relationship.

Considering these variables, it becomes clear that the value of a prenuptial agreement does not lie solely in the document itself but in the process that underpins its formulation. Marriage is a relational space filled with emotional dimensions, which means that a legal contract cannot replace the roles of trust, loyalty, and communication (Arif Sugitanata & Sarah Aqila, 2023). A prenuptial agreement can function optimally only when it forms part of a healthy discussion, not when it is used as a substitute for the emotional structure of the relationship.

At this point, a prenuptial agreement may be understood as an instrument with two faces. It can help couples organise their domestic life more systematically, yet it can also become a reflection of unresolved internal uncertainties. What determines its direction is not the legal regulation itself but the emotional readiness and quality of communication between the parties. This legal instrument does not diminish the value of trust, although the way it is used may influence how couples perceive commitment.

Therefore, prenuptial agreements in Indonesia exist between the poles of necessity and doubt. On one hand, their legal basis is clear, their legal function is strong, and their practical benefits can be felt by couples who face particular complexities in managing shared life. On the other hand, this instrument may raise questions about emotional readiness when its use is driven more by anxiety than by objective need. Consequently, an understanding of prenuptial agreements cannot be simplified into merely necessary or unnecessary, but must instead be interpreted through a comprehensive context that encompasses legal, psychological, social, and relational factors.

The essence is that a prenuptial agreement is a legitimate legal option, and its existence does not determine whether a relationship possesses strong confidence or not. What matters is the quality of dialogue, the maturity of understanding, and the awareness of each party when preparing to enter married life. When this instrument is understood proportionally, it can become part of an effort to build a well-planned

and committed household, not as an obstacle to trust but as a foundation that helps ensure the relationship remains on a clear and accountable path.

## **CONCLUSION**

This study finds that a prenuptial agreement cannot be categorised solely as a necessity or as an indication of insufficient confidence within a marital relationship. Instead, it is a neutral legal instrument that functions differently depending on the couple's context. On one hand, a prenuptial agreement emerges as a rational need when couples face significant disparities in asset ownership, complexities in economic management, or a requirement for legal certainty prior to entering marriage. In such circumstances, the instrument serves as a preventive mechanism to reduce potential friction, strengthen openness, and organise household life in a transparent manner. On the other hand, the study also finds that some couples consider a prenuptial agreement due to psychological impulses such as anxiety, trauma, or fear of potential relationship failure, which means the instrument reflects unresolved emotional needs. Consequently, a prenuptial agreement occupies an ambivalent position, as it may represent careful planning or a manifestation of doubt, with its meaning shaped by the quality of communication, emotional readiness, and the underlying process of dialogue.

This study also has a key limitation relating to the scope of its findings, which remain focused on describing motivations and perceptions concerning prenuptial agreements without verifying behaviour or concrete practices after the agreement has been drafted. All findings concerning necessity and insufficient confidence rely on conceptual arguments, logical reasoning, and normative interpretations of psychological, economic, and social dynamics. As a result, they do not yet illustrate how these motivations actually operate in real cases or in the empirical experiences of couples who have either made or declined to make a prenuptial agreement. The study also does not incorporate comparative data between different groups of couples, for instance couples with complex assets compared with those without significant

differences in assets. Therefore, conclusions regarding the ambivalence between necessity and doubt cannot yet be mapped with greater precision.

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## TRANSFORMATIVE ARCHITECTURE OF PROPHETIC SOCIAL SCIENCES BY HUSNI MUADZ: SYNTHESIS OF LINGUISTICS, SYSTEMS, AND QUR'ANIC PRACIS

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### Abstract

This article analyzes the intellectual architecture of Husni Muadz, who developed Transformative Prophetic Social Science through a synthesis of Western scientific methodology and Islamic epistemology. By combining Linguistics, General System Theory (GST), and Pragmatics with Qur'anic values, Sufism ethics, and Islamic philosophy, Muadz built a paradigm that is not only diagnostic but also operational. This study maps two main phases of Muadz's development: the theoretical formulation phase (1991–2010), which produced Transformative Social Sciences and the Praxis-Recognitive Learning Model; and the practical transformation phase (2010–2021), which gave birth to social technologies such as the Meeting School and Pragmatics of the Qur'an. The research findings show that Muadz's container–content approach enables the integration of systemic analysis and a transcendent ethical orientation, thus diagnosing structural inequalities while offering a concrete, low-cost, and easily replicable mechanism for social transformation. Furthermore, the praxis-recognitive model and the use of Qur'anic speech act theory establish a system of moral accountability that connects ethical intentions with social action. This study confirms Muadz's significant contribution in expanding the framework of Prophetic Social Science by presenting an applicable methodology relevant to character development, social liberation, and community development.

**Keywords:** Prophetic Social Sciences, Husni Muadz, General System Theory, Pragmatics of the Qur'an, Social Transformation

### Abstrak

Artikel ini menganalisis arsitektur intelektual Husni Muadz yang mengembangkan Ilmu Sosial Profetik Transformatif melalui sintesis antara metodologi ilmiah Barat dan epistemologi Islam. Melalui perpaduan Linguistik, General System Theory (GST), dan Pragmatika dengan nilai-nilai Al-Qur'an, etika tasawuf, serta filsafat Islam, Muadz



membangun paradigma yang tidak hanya bersifat diagnostik tetapi juga operasional. Penelitian ini memetakan dua fase utama perkembangan gagasan Muadz: fase perumusan teori (1991–2010), yang menghasilkan Ilmu-ilmu Sosial Transformatif dan Model Pembelajaran Praxis-Rekognitif; serta fase transformasi praksis (2010–2021), yang melahirkan teknologi sosial seperti Sekolah Perjumpaan dan Pragmatika Al-Qur'an. Temuan penelitian menunjukkan bahwa pendekatan wadah-isi Muadz memungkinkan integrasi antara analisis sistemik dan orientasi etis transenden, sehingga mampu mendiagnosis ketimpangan struktural sekaligus menawarkan mekanisme transformasi sosial yang konkret, berbiaya rendah, dan mudah direplikasi. Selain itu, model praxis-rekognitif dan penggunaan teori tindak turur Qur'ani membentuk sistem akuntabilitas moral yang menghubungkan niat etis dengan tindakan sosial. Studi ini menegaskan kontribusi penting Muadz dalam memperluas kerangka Ilmu Sosial Profetik dengan menghadirkan metodologi aplikatif yang relevan bagi pengembangan karakter, pembebasan sosial, dan pembangunan masyarakat.

**Kata Kunci:** *Ilmu Sosial Profetik, Husni Muadz, General System Theory, Pragmatika Al-Qur'an, Transformasi Sosial*

## INTRODUCTION

The intellectual project initiated by Husni Muadz occupies a crucial position in the development of contemporary Islamic social science discourse. His work goes beyond the conceptual level but also aims to develop an epistemology that transforms social reality. He sees the urgent need to present a model of knowledge capable of addressing the challenges of the modern world, particularly the increasingly complex issues of dehumanization and social inequality. Therefore, his thinking seeks to link the normative aspects of Islamic teachings with a systematic scientific approach.(FIRDAUS, nd)

In the context of Prophetic Social Science (PSS), Muadz made a unique contribution through his efforts to reconcile prophetic theory with social practice. He believed that PSS could not remain an abstract idea; it must be transformed into an operational framework that guides action.(Cooren, 2011; Habermas, J., 1984) This orientation moves his scholarly project beyond academic debate to the creation of instruments for social change that can be used by the wider public. Thus, his ideas serve as a bridge between the world of theory and the realm of implementation.(Compiling Team, 2017)

The main characteristic of Muadz's intellectual architecture is the fusion of modern scientific disciplines with religious values derived from Islamic tradition. He utilized General Systems Theory (GST) to formulate a holistic social system structure and pragmatics to understand the dynamics of communication actions.(MH Muadz & Perjumaan, 2016)However, this methodological foundation does not stand alone; the entire analytical apparatus is oriented by Qur'anic ethics and Sufi principles, which emphasize the formation of moral consciousness. The integration of these two dimensions is a hallmark of Muadz's thought, which rejects the secularization of knowledge and simultaneously rejects an unsystematic approach to religion.(FIRDAUS, nd)

Through this approach, Muadz attempts to overcome the limitations of reductionist models of social analysis. He argues that many failures of modern social systems stem from a perspective that separates moral-spiritual aspects from social mechanisms. By combining a scientific analytical framework with a transcendent axiological foundation, he hopes to present a new paradigm that is better able to understand the roots of injustice, the breakdown of interpersonal relations, and the crisis of values in society.(Compiler, 2017)

Reports or studies discussing Muadz's intellectual project typically place paradigmatic foundations as the starting point of analysis. This is crucial because the overall structure of his thought progresses chronologically and in stages, from concept development and model development to the formulation of social transformation technologies. Each stage is intended to fill a specific gap in Islamic social science discourse, particularly the need for a comprehensive and applicable approach. Thus, the development of his thought can be read as a consciously designed evolutionary process.(Harianto, 2017)

The project's stages demonstrate a shift from an abstract theoretical orientation to a concrete, practical one. In the initial phase, the focus was on formulating an analytical framework capable of describing the structure of social systems and the anatomy of human relations. Next, he developed a learning model aimed at forming

reflective and ethical social subjects. Only then did he design social technologies that could be implemented in various communities to instill values and foster transformational behavior.(Putrawan, 2018)

The combination of scientific framework and prophetic values makes Muadz's ideas relevant to various cross-disciplinary studies.(Arifin, 2025; Firdaus, 2021; Husni Muadz, 2018; Compiler, 2017) Her project opens up new avenues for understanding how sacred texts and spiritual traditions can be operationalized methodologically, rather than simply becoming normative doctrines. By utilizing pragmatics, for example, she demonstrates that Quranic verses can be read as guidelines for communicative action that directly impact social relations. Innovations like these enrich the ISP repertoire with more concrete and measurable analytical tools.(Kusmayani, 2022)

Overall, Husni Muadz's intellectual project provides a crucial foundation for the development of a change-oriented Islamic social science. He not only offers a critique of social conditions but also provides epistemological and methodological tools for initiating transformation. Combining analytical rigor and ethical depth, his thought offers an alternative path for Muslim societies to build a more just, sustainable, and prophetic social system.

## **METHOD**

### **Contextualization of Muadz in the Discourse of Prophetic Social Sciences**

Muadz's work is an important continuation of Kuntowijoyo's Prophetic Social Sciences (ISP) vision, which is based on the pillars of Humanization, Liberation, and Transcendence.(Kuntowijoyo, AE, & Priyono, AE, 2008). Muadz provides an operational framework for these pillars: Transcendence is institutionalized through the paradigmatic Content and definition of the Ideal State derived from the Qur'an and Islamic Philosophy.(Searle et al., 1980) Humanization is realized through the Encounter School, which focuses on holistic and ethical personal development. Liberation is facilitated through the Anatomy of Social Systems diagnosis of structural

imbalances, and supported by a democratic technological mandate (low cost and high scalability). Muadz's approach complements the ISP by providing the methodological framework (GST and Pragmatics) necessary to translate transcendent values into systematic and measurable liberation strategies, as required in the application of azimah (the principle of no dispensation) in social justice issues.(Husni Muadz, 2019a)

### **Critical Evaluation and Future Directions**

The most prominent strength of Muadz's project is its ability to rigorously integrate systems analysis (GST) with moral-communicative considerations (Quranic Pragmatics).(SP Testimony Book 2017, nd; Husni Muadz, 2019a) This creates a closed cycle: in-depth cognitive analysis produces cognitive awareness, which is internalized through the Encounter School, and manifested through measurable praxis. However, there is a need for further academic elaboration. Methodological details regarding specific implementation steps in the 1991–2010 and 2010–2021 phases remain general.(Arifin, 2025; Husni Muadz, 2018). In addition, an in-depth explanation of how Muadz distinguishes and uniquely applies the five illocutionary acts within his Qur'anic framework will strengthen the understanding of his proposed system of moral accountability.

The use of universal theories such as GST and Pragmatics ensures that Muadz's framework has structural relevance beyond specific cultural boundaries. While the core values are rooted in Islamic tradition, systematic and democratic implementation methodologies (such as low-cost technology) allow for the adaptation and application of his social technology across diverse contexts for the broad purposes of character development and social justice.(Husni Muadz, 2019b)

## **RESULTS AND DISCUSSION**

### **Paradigm Shift: Chronology and Epistemological Foundations**

The development of Muadz's framework is sequential and planned, with clear objectives at each phase, demonstrating a deliberate movement from theoretical construction to implementation practice.

a. Trajectory of Intellectual Transformation

This intellectual journey is divided into two main phases, each allocated to a specific decade, marking a firm commitment to building a foundation and then implementing it. First, the Theory Formulation & Paradigmatic Framework period (1991–2010), focused on developing a conceptual and structural foundation. This phase produced fundamental thought products: the development of the Paradigmatic Transformative Social Sciences (anatomy of social systems) and the Praxis-recognitive Learning Model (learning quadrants). Second, the Praxis Transformation period (2010–2021), marked a total shift in focus towards application, technology development, and transformation in real contexts. This phase produced applied outputs: Creating Character/Value Learning Technology (Sekolah Perjumbaan) and Creating Technology to Ground the Quran in Life (Pragmatics of the Quran). (Taufik, 2017)

This chronological division demonstrates that the project methodologically operationalizes a core principle of ISP: that transformative thinking must explicitly define mechanisms for realizing transcendent values in social action. By dedicating an entire decade (2010–2021) to technological development, Muadz's project demonstrates a reluctance to allow its critical theory to be isolated from the challenges of implementation. (Putrawan, 2024; Putrawan & Sibawaeh, 2015)

Table 1: Chronology of Intellectual and Product Development

Phase (Year)	Primary Focus	Objective	Main Products
Formulation of Theory & Paradigmatic Framework (1991–2010)	Theoretical Foundation	Paradigmatic Construction	Transformative Social Sciences, Praxis-recognitive Learning Model
Praxis Transformation (2010–2021)	Applied Implementation	Technology Creation and Scaling	Character/Value Learning Technology

			(Encounter School), Pragmatics of the Qur'an
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b. Transformative Paradigm Architecture: Container-Content Framework

Muadz's epistemology is founded on the principle of synthesis between the Container (scientific analysis structure) and Content (axiological and ethical substance).

1) Epistemological Container: Analytical Structure

The framework provides the methodological framework needed for rigorous systems diagnosis and analysis. Its main components are the Western Scientific Tradition, Linguistics, General Systems Theory (GST), and Pragmatics.(Luhmann, 1995)

Linguistics, Muadz's initial background, was transformed into a contextual analysis tool through Pragmatics. Pragmatics, the study of language in the context of action, is vital because it connects internal intentions and utterances with social acts. This allows ethical content to be translated into measurable actions through the concept of the five types of language.(Habermas, J., 1984, 1989)

General Systems Theory (GST) plays a fundamental role as a tool for defining the Anatomy of Social Systems. GST allows this framework to analyze society as an integrated network, rather than a collection of separate variables. This holistic approach is necessary to detect the root causes of systemic problems, such as economic inequality and dehumanization, which cannot be solved with reductionist approaches. This theoretical framework is structured in a hierarchy that moves from the World View to the Ideal State, where GST helps ensure coherence and non-reductionism in the derivation of laws and principles.(Husni Muadz, 2019b; Searle et al., 1980)

2) Axiological Content: Normative Core

The content provides the moral and definitional direction of the Ideal State. Its components include Religious Sciences, the Islamic Philosophical Tradition, the Sufism/Islamic Ethics Tradition, Critical Social Sciences, and the Qur'an. The Qur'an serves as the primary source of normative data, operationalized through Qur'anic Pragmatics. The inclusion of Sufism/Islamic Ethics is crucial because it emphasizes internal moral reform, which directly supports the Encounter School's goal of character building. This ethical ideal is guided by the concept of "prophetic consciousness," which is fully existential-theistic-liberative, as manifested by the Prophet Muhammad (peace be upon him).

This synthesis ensures that rigorous scientific analysis (Container) is guided by a transcendent ethical purpose (Content). The result is a framework that not only diagnoses systemic failures but also prescriptively directs empirical reality toward an Ideal State grounded in prophetic justice.(H. Muadz, 2015; MH Muadz & Perjuuan, 2016)

Table 2: Mapping of Muadz's Paradigmatic Framework

Component Categories	Container (Container: Western Scientific Tradition)	Contents (Content: Islamic Epistemology)	Synthesis Products (Anatomy of Social Systems)
Theoretical Discipline	Linguistics, General System Theory, Pragmatics	Religious Studies, Islamic Philosophical Tradition, Sufism/Islamic Ethics Tradition, Al-Qur'an	Transformative social sciences (anatomy of social systems)
Objective	Methodological Structure, System Analysis, Diagnostic Tools	Value and Ethical Orientation, Normative Sources of Law, Ideal State	Building a Prophetic Paradigm and Diagnosing Systemic Failure

### Conceptual Outcomes: Defining Transformative Social Sciences

Two main conceptual products emerged from the theoretical phase, which defined how Muadz understood social diagnosis and the learning processes necessary for change.

- Transformative Social Sciences: Anatomy of Social Systems

The concept of Transformative Social Sciences is defined as an effort to construct new paradigms and understand the anatomy of social systems. The primary function of this framework is to diagnose system failures in intersubjective relations.

Through the lens of GST, this framework identifies how excessive development models that lead to the accumulation of material goods and the exploitation of nature creating structural imbalances (inequality) and leading to the dehumanization of humankind. Thus, this framework aims to provide a prescriptive description of how systems should be reconstructed to align with ethical norms.(Tim et al., nd)

b. Praxis-recognitive Learning Model (Learning Quadrant)

The Praxis-recognitive model, also called the learning quadrant, is an educational mechanism designed to translate systemic understanding into ethical action.(Husni Muadz, 2019b)

This model maps four psychological modes or mental states: Thinking (thought/belief), Willing (will/intention), Desiring (biologically related desires), and Emotioning. It emphasizes Praxis (action) rooted in Recognition (awareness), suggesting a cycle in which deep systemic awareness generates moral commitment that leads to action. This is essential for actualizing the human role as an active historical agent (al-caliph) leading toward virtue.(Searle et al., 1980)The development of this model aims to produce a complete (holistic) human personality, which overcomes vertical (theological deviation) and horizontal (social injustice) problems, including physical-biological and psychological-spiritual development.(Agung, 2024; Kafie, 1993)

In the context of application, the Praxis-recognitive Learning Model directly provides input for Qur'anic Pragmatics. Willing, which is the internal ethical dimension, acts as a driver of the illocutionary power of the five language types. This ensures that communicative actions in the social world are always calibrated by the

moral intentions that have been formed by the learning model.(Medani, 2023; Putrawan, 2024)

Table 4: Integration of Internal States and External Actions (Practice Link)

Mental State (Psychological Mode)	Core Concept	Link to Pragmatics of the Qur'an	Transformative Function
Thinking (Thoughts/beliefs)	Epistemology/Belief System	Defines the premises for the speech act	Ensuring cognitive alignment with prophetic truth.
Willing (Will/Intention)	Axiology/Ethical Intention	Encourage the illocutionary power of the action	Ensure actions are rooted in moral commitment.
Desiring (Biological desire)	Biological/Material Needs	Provides context for assertive/directive actions	Managing material demands within ethical boundaries.
Emotional	Affective State	Influences expressive and declarative actions	Regulating emotional responses to align with systemic justice.

### Technology for Practical Transformation: Application and Scalability

The Praxis Transformation Phase (2010–2021) produced technologies explicitly designed to address social and ethical issues with stringent implementation criteria.

#### a. Transformative Technology Design Criteria

Muadz set out five conditions that the resulting technology must meet, ensuring that the solution is relevant, sustainable, and accessible to the masses.(Sar'in et al., 2022; Wahab & Muntakhib, 2021)The criteria include: Unavoidable for everyone, Guaranteed sustainability, Inexpensive/low cost, Practice space must be concrete, and Easy to scale up.

The low-cost requirements and methodologically easy scale-up ensure that this project can achieve liberation at the grassroots level, transcending the economic barriers that often hamper social change projects. Expensive or complex technologies tend to fail to meet the liberation pillar of Prophetic Social Science. Furthermore, the requirement that "practical venues must be concrete" ensures that the ethical values derived from Sufism are directly tested and verified in real-life practice.

Table 5: Technology Design Mandate (Practical Implementation Criteria)

Criteria (Indonesian)	Strategic Principles	Rationality (Prophetic Transformation)
It cannot be avoided by everyone	Universal Needs	Ensuring relevance to fundamental human conditions, avoiding niche applications.
Guaranteed sustainability	Guaranteed Sustainability	Avoiding dependence on perishable resources, ensuring long-term systemic impact.
Inexpensive/low cost	Accessibility	Democratizing the methodology, is essential for grassroots liberation and scaling.
Practice areas must be concrete	Real Practice Arena	Linking abstract ethics (Sufism) with verifiable empirical actions.
Easy to scale up	Scalability	Facilitating the widespread adoption necessary for large-scale social transformation.

b. Applied Technology I: Encounter School

Encounter School is a technology designed for character/values learning. Its focus is on building ethical intersubjective relationships, a concept essential for reconstructing damaged social normality.(Husni et al., 2025; Lessy et al., 2023; Mardiah et al., 2024)

The learning process at this school is centered on humanistic and holistic efforts to develop personality. The term "Encounter" implies a space where commitment to learning, relationality, and the practice of truth can be concretely practiced, fostering moral law and social optimism.(Astuti, 2020)This technology is supported by the ideal of a perfect individual who has an existential-theistic-liberative prophetic consciousness as an ethical reference.

c. Applied Technology II: Pragmatics of the Qur'an

Qur'anic Pragmatics is a technology for grounding the Qur'an in life. This technology effectively applies speech act theory to analyze and calibrate communicative actions. This framework is broken down into Speaker, Design Audience, and Expression in the form of actions (five types of language). The five identified language types—Assertive, Directive, Expressive, Commissive, and Declarative—are derived from illocutionary theory, which connects intention (Willing) with spoken actions.(Alghifari & Fatoni, 2022; Firdaus, 2021)

Using this framework, Qur'anic Pragmatics provides a measurable system of moral accountability. For example, commissive actions (such as promises or moral

commitments) can be analyzed based on whether the speaker's ethical intentions (willing) align with the promised social action, thus promoting ethical consistency in the public sphere. Although the available article does not detail specific definitions of Muadz for these five types, their role in the system is to ensure that social transformation is measured through communication performance and concrete actions.(Putrawan & Sibawaeh, 2015; Taufik, 2017)

## CONCLUSION AND SUGGESTIONS

Husni Muadz's success in constructing his intellectual architecture lies in his ability to connect the discipline of linguistics with a transformative orientation toward social change. He demonstrates that the study of language extends beyond the analysis of structure or meaning, but can be expanded into an instrument of social engineering through an understanding of communicative action and the dynamics of intersubjectivity. The integration of linguistics, systems theory, and a prophetic approach gives his scholarly project a broad scope and strong methodological relevance in understanding contemporary realities.

Muadz's transformative approach became increasingly apparent when he operationalized Prophetic Social Science (ISP) into tools that could be directly applied to education and community empowerment processes. Two key products from his practical phase, the Meeting School and Pragmatics of the Qur'an, demonstrate that the prophetic paradigm can be translated into accessible and replicable social technologies. The Meeting School, for example, is designed as a value-learning space that emphasizes ethical relationships, self-awareness, and moral commitment, thus producing social subjects ready to play a role in the process of change.

Furthermore, Qur'anic Pragmatics provides a conceptual foundation for the development of a model of communicative action rooted in Qur'anic values. Through this approach, Muadz asserts that communication ethics in Islam is not merely normative but can be scientifically analyzed through pragmatic tools and speech act theory. This analytical structure allows for the evaluation of the intention, meaning,

and impact of each communication act, thus establishing a system of moral accountability applicable in both social and institutional settings.

The main strength of this intellectual architecture lies in its consistent linking of two dimensions: Content and Container. The Content dimension comprises transcendental values derived from the Qur'an and Islamic ethical traditions, while the Container refers to modern analytical tools such as General Systems Theory, linguistics, and pragmatics. The harmony between the two allows Muadz's thinking to move holistically, avoiding being trapped in abstract spiritualism or value-laden scientism. Thus, the proposed paradigm becomes more flexible, adaptive, and responsive to complex social issues.

Epistemologically, the success of the Muadz project also depends on the practical orientation enshrined in the social technology mandate. The principles of low-cost, easily replicable, and relevant technology for all levels of society make the models he develops potentially widespread. This approach aligns with the liberatory spirit of the ISP, which aims for social transformation to occur not only at the elite level but also to permeate grassroots communities. The interconnectedness between paradigms, learning models, and social technologies demonstrates that the project was developed in a gradual and linear manner, while simultaneously considering sustainability.

As an academic follow-up, at least two important agendas are needed. First, a more in-depth study of the curriculum design and practices of the Perjumpa School is crucial for understanding how the praxis-recognitive model is applied in the context of values education. Second, comparative linguistic research is needed on Muadz's works related to Qur'anic Pragmatics, particularly regarding the differentiation of the five illocutionary acts. This in-depth study is crucial for enriching understanding of the moral accountability system he designed and expanding its use in contemporary Islamic studies.

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## LEGAL ANALYSIS OF CORPORATE LIABILITY TOP INSIDER TRADING PLATFORMS FOR DIGITAL ASSETS IN INDONESIA

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### **Abstract**

This study aims to understand how the development of financial technology and digital assets in Indonesia has opened new economic opportunities, but has also given rise to new forms of crime, one of which is insider trading in digital asset transactions. This practice poses legal challenges because perpetrators are not always individuals but can also be corporations that control information and transaction systems. This study aims to analyze corporate legal liability for insider trading practices on digital asset platforms in Indonesia. The method used is normative juridical, with a statutory and conceptual approach. The results show that existing regulations still focus on conventional securities transactions, while the legal framework for digital assets still does not provide a clear basis for corporate accountability for insider trading practices.

**Keywords:** *Corporate Accountability, Insider Trading, Digital Assets, Business Law, Capital Market Law*

### **Abstrak**

Penelitian ini bertujuan untuk mengetahui tentang bagaimana perkembangan teknologi finansial dan aset digital di Indonesia telah membuka peluang ekonomi baru, namun juga memunculkan bentuk kejahatan baru, salah satunya insider trading dalam transaksi aset digital. Praktik ini menimbulkan tantangan hukum karena pelaku tidak selalu individu, tetapi juga dapat berupa korporasi yang mengendalikan informasi dan sistem transaksi. Penelitian ini bertujuan untuk menganalisis pertanggungjawaban hukum korporasi terhadap praktik insider trading di platform aset digital di Indonesia. Metode yang digunakan adalah yuridis normatif, dengan pendekatan perundang-undangan (statute approach) dan pendekatan konseptual (conceptual approach). Hasil penelitian menunjukkan bahwa regulasi yang ada masih berfokus pada transaksi efek konvensional, sementara kerangka hukum untuk aset digital masih belum memberikan dasar yang tegas bagi pertanggungjawaban korporasi dalam praktik insider trading.



**Kata Kunci:** *Pertanggungjawaban Korporasi, Insider Trading, Aset Digital, Hukum Bisnis, Hukum Pasar Modal*

## INTRODUCTION

The digitalization of the economy has led to the creation of various digital asset trading platforms that enable people to invest and transact online. While these developments provide convenience and increase participation in the digital economy, they also pose the risk of misuse of information by internal corporate parties, known as insider trading.(Aghivirwati et al., 2025)

These risks are increasingly difficult to control in digital asset ecosystems such as cryptocurrencies and tokens given the decentralized nature of their transactions and the high degree of user anonymity.(Hardiyanto et al., 2023)Under Indonesian law, the prohibition on insider trading is essentially stipulated in Law Number 8 of 1995 concerning Capital Markets (UUPM). However, this provision does not yet address the legal nature of digital assets, while the Financial Services Authority (OJK) and the Commodity Futures Trading Regulatory Agency (Bappebti) are still working to expand their oversight of corporate entities suspected of unlawfully exploiting non-public information.(J. Peryanto et al., 2025)This raises legal issues regarding how corporations can be held legally accountable for insider trading practices that occur through digital asset platforms.

Normatively, the Capital Market Law prohibits any internal party of an issuer from exploiting material information that is not yet publicly available for personal gain. However, this provision does not yet cover digital asset transactions such as crypto or tokens that are under the supervision of Bappebti.(Tambun & Putuhena, 2022)This creates a legal vacuum, as insider trading in digital assets is not subject to the same provisions as in conventional capital markets. On the other hand, corporations can still be held legally liable if proven to have profited from unauthorized inside information or negligent internal oversight of the use of user information.(Wijaya, 2021)The principle of corporate criminal liability asserts that corporations can be considered subjects of criminal law as long as the criminal act is committed in the interests of the

corporation or at the instruction of its management. However, proving the case in the context of digital assets presents unique challenges due to the decentralized transaction system and the involvement of various parties, such as exchanges, custodians, and developers, who are not yet fully subject to uniform regulatory standards.(Satibi et al., 2025)

The resulting legal vacuum has weakened the regulatory framework for authorities to prosecute insider trading practices outside the traditional capital market framework. This issue is further complicated by national jurisdictional boundaries, given that digital asset transactions often occur across borders and involve actors who are difficult to definitively identify.(Saputra, 2025)Facing these conditions, more comprehensive legal reforms are needed to integrate digital market integrity principles into digital asset regulations in Indonesia. Supervisory coordination between the Financial Services Authority (OJK), Bappebti (Commodity Futures Trading Regulatory Agency), and Bank Indonesia (BI) needs to be strengthened with the support of regulatory technology (regtech), in addition to explicit regulations regarding corporate accountability, including administrative and criminal sanctions, and the possibility of business license revocation.<sup>1</sup>Based on this, it can be seen that corporate accountability for insider trading practices on digital asset platforms still faces various legal and technical obstacles.

## **METHOD**

This study employs a normative juridical method, which focuses on examining legal principles, statutory provisions, and conceptual frameworks relevant to corporate accountability in insider trading practices on digital asset platforms. The normative juridical approach allows the research to analyze existing laws, such as the Capital Market Law, the Criminal Code, and regulations issued by Bappebti and the

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<sup>1</sup> Nor Hasanah, M Noor Sayuti, and Lisnawati Lisnawati, “Optimization of Islamic Banking Regulations by Bank Indonesia and the Financial Services Authority in Accelerating Digital Transformation,” *Journal of Applied Management and Finance* 13, no. 03 (2024): 709–23. DOI: <https://doi.org/10.22437/jmk.v13i03.36621>.

Financial Services Authority (OJK), while also identifying gaps and inconsistencies in their application to digital asset transactions.

The research design integrates both a statutory approach and a conceptual approach. The statutory approach involves a systematic review of legislation and regulatory instruments governing capital markets, commodities, and corporate liability, while the conceptual approach explores theoretical perspectives on corporate criminal responsibility and the adaptation of legal norms to digital ecosystems. Data sources consist of primary legal materials (laws, regulations, and court decisions) and secondary materials (academic journals, books, and authoritative commentaries).

Through descriptive and analytical techniques, the study maps the extent to which current regulations address insider trading in digital assets and evaluates the challenges of applying corporate liability principles in a decentralized, cross-border digital environment. This method ensures that the findings are grounded in legal doctrine while also providing critical insights into the normative vacuum and the need for regulatory reform in Indonesia's digital asset market.

## **RESULTS AND DISCUSSION**

### **Corporate Accountability for Insider Trading on Digital Asset Platforms in Indonesia**

Corporate liability in cases of insider trading on digital asset platforms is a form of legal responsibility imposed on legal entities or companies that organize digital asset trading when criminal acts are committed for their own benefit or due to negligence in carrying out supervision. Ahmad Hanif Ahmad Hanif, "Criminal Liability for Binary Option Platform Application Affiliates from an Indonesian Legal Perspective" (Batanghari University, 2022).

According to Article 20 of Law Number 1 of 2023 concerning the Criminal Code (KUHP), corporations can be held criminally responsible if a crime is committed:

1. For corporate purposes;
2. By managers, employees, or other parties who have an employment relationship with the corporation; and

3. Within the scope of corporate business activities. Anas Maulana, Rizka Sepriyanti, and Asep Guntur (2025).

In the context of digital asset platforms, insider trading can occur when company officials, employees, or managers use material non-public information (e.g., plans for new token listings, the delisting of certain assets, or strategic partnerships) to gain personal gain or benefit certain parties. (Kennedy et al., 2024) If the act is carried out with the knowledge or due to the corporation's negligence in carrying out supervision, the corporation can be held accountable.

#### 1. Criminal Liability

Corporations can be held criminally liable if they are proven to: a) gaining economic benefits from insider trading; b) Not having adequate internal control systems to prevent misuse of information; c) Or not carrying out monitoring and compliance steps as required by regulations. (Ismail, 2025)

Criminal sanctions against corporations can be in the form of; a) Fines with an increased value of individual sanctions; b) Freezing of some business activities; c) Revocation of operational permit; d) Or dissolution of the corporation (Article 118 of the 2023 Criminal Code). (AS Wibowo et al., 2025)

#### 2. Administrative Accountability

In addition to criminal sanctions, the Commodity Futures Trading Regulatory Agency (Bappebti) has the authority to impose administrative sanctions on digital asset platform operators who violate market integrity principles or fail to maintain user data confidentiality. These sanctions can take the following forms: a) Written warning; b) Restrictions on business activities; c) Imposition of administrative fines; d) Up to the revocation of permits as digital asset traders. (J. Peryanto et al., 2025).

This administrative responsibility is usually imposed when the corporation is not directly involved in the crime, but is proven to be negligent in supervision and compliance (compliance negligence). (Wiratama & SH, nd)

### 3. Civil Liability

From a civil law perspective, corporations can also be held responsible if investors or users suffer losses due to insider trading actions carried out by internal company parties.(Mentari, 2020)Under Article 1365 of the Civil Code, any unlawful act that results in harm to another person requires the perpetrator to compensate for that loss. Therefore, platform users can sue corporations for damages on the basis of unlawful acts (onrechtmatige daad) if it is proven that:(Badri et al., 2024): a) Unlawful acts (e.g. misuse of information by corporate employees); b) Corporate error or negligence; c) Losses suffered by users; and d) The causal relationship between the action and the loss.

Corporate liability for insider trading on digital asset platforms is multidimensional, encompassing criminal, administrative, and civil liability. Corporations can be held liable if the insider trading is carried out for their own benefit or occurs due to negligence in overseeing internal activities. The fundamental principle is that corporations are subject to both criminal and civil law, and therefore cannot hide behind the actions of individual employees.

**The legal analysis of regulations regarding insider trading in digital assets still creates a legal vacuum regarding corporate accountability in Indonesia.**

#### **1. The Incompatibility of the Capital Market Legal Regime with the Characteristics of Digital Assets**

The legal vacuum in regulating insider trading in digital assets in Indonesia stems from the incompatibility between the conventional capital market legal system and the characteristics of digital assets based on decentralized technology.(Nephi, 2020)Law Number 8 of 1995 concerning Capital Markets (UUPM) explicitly prohibits insider trading of "securities" or securities issued and traded on the capital market. However, digital assets such as crypto, tokens, and NFTs are not included in the "securities" category as defined in Article 1(5) of the UUPM.

As a result, the prohibition and criminal sanctions against insider trading in the Capital Market Law cannot be directly applied to digital asset transactions, even

though the substance is similar: the misuse of non-public information for personal or corporate gain. In other words, the existing legal framework is unable to address new phenomena in the digital world, as the regulations were formulated within the context of a centralized capital market structure (centralized trading system), not a decentralized blockchain.(Satibi et al., 2025)

## **2. Dualism of Authority between OJK and Bappebti**

The legal vacuum is further exacerbated by the dual supervisory authority between the Financial Services Authority (OJK) and the Commodity Futures Trading Regulatory Agency (Bappebti). The OJK has the authority to oversee capital and financial market activities, including preventing insider trading.(Nucraheni & Rizka, 2024)However, digital assets in Indonesia are currently categorized as digital commodities, not securities, so their oversight falls under Bappebti (Trading Commodity Futures Trading Regulatory Agency), not the Financial Services Authority (OJK). Problems arise when insider trading practices in digital assets exhibit characteristics typical of securities transactions, such as the use of material information not publicly disclosed by internal platform parties (exchange operators).(Wati & Andito, 2025)Bappebti does not have a legal framework equivalent to the provisions of Articles 95–104 of the Capital Market Law, which regulate insider trading. Therefore, there is no adequate legal basis to prosecute corporations involved in insider trading on digital asset platforms, as each institution has different jurisdictional boundaries and legal frameworks.(Nephi, 2020)

## **3. The Unclear Legal Status of Corporations in Digital Asset Transactions**

Corporations that manage digital asset platforms, such as crypto exchanges, custodians, or token issuers, act as service providers, but their legal status within the national legal system is not yet clearly defined.(Atmojo & Fuad, 2023)

For example, although corporations may have administrative liability under Bappebti Regulation No. 8 of 2021, the regulation does not explicitly stipulate

corporate criminal liability for acts of misuse of information or violations of trade ethics.

This contradicts the general principle of corporate criminal liability under Indonesian law, as stipulated in Law No. 7 of 2021 concerning the Harmonization of Tax Regulations and Article 118 of the 2023 Draft Criminal Code, which recognizes corporations as subjects of criminal law. However, without a *lex specialis* in the digital asset sector, this principle cannot be operationally applied in cases of digital insider trading.(Hawari, 2023)

#### **4. Characteristics of Decentralization and Anonymity of Digital Transactions**

Technological factors also exacerbate the legal vacuum. Digital asset systems operate on decentralized, pseudonymous, and borderless blockchain networks.Wilda Malika Mufrihah and Nandang Najmudin, (2024). In these circumstances, identifying perpetrators and proving corporate involvement becomes extremely difficult, as there is no single identity verification mechanism, as in conventional capital markets. For example, if insider trading is conducted by an internal company employee using an anonymous wallet, authorities will have difficulty proving a link between the corporate legal entity and the individual's actions.Nazhif Ali Murtadho, "Legal Protection for Investors Against Insider Trading in the Capital Market from the Perspective of the Capital Market Law," Recital Review 6, No. 1 (2024): 74–99. As a result, the principle of "corporate mens rea" (corporate malice) which is the basis for criminal liability cannot be proven effectively.Humam Balya, Muh Zidni Syukran, and Abrar Abrar, "The Role of Mens Rea in the Legal System: An Analysis of the Relationship with the Principles of Ethics and Justice," As-Salam: Journal of Islamic Law Studies & Education 14, No. 1 (2025): 99–107.

#### **5. Legislative Delays and Regulatory Adaptation to Financial Technology**

Another weakness stems from the slow response of national legislation to the development of digital financial technology (fintech and crypto assets).Eric Hermawan, Answering Digital Challenges and Stability of Contemporary Financial

Systems (Cv Eureka Media Aksara, 2025). To date, Indonesia does not have a specific law on digital assets or crypto assets. Existing regulations, such as Bappebti Regulation No. 8 of 2021 and Minister of Trade Regulation No. 99 of 2018, only address the administrative and technical aspects of trading, not criminal law or corporate liability. However, several countries, such as the United States (through the SEC) and Singapore (through the Monetary Authority of Singapore), have expanded the definition of "securities" to include digital assets, thereby potentially ensnaring insider trading in the digital space, both individuals and corporations. Berry A Harahap Et Al., "Development of Financial Technology Related to Central Bank Digital Currency (Cbdc) on Monetary and Macroeconomic Policy Transmission," *Bank Indonesia* 2, No. 1 (2017): 80. Indonesia is still in the early stages of developing digital regulations, so this regulatory lag creates a normative vacuum that can be exploited by corporate-profile digital criminals. Soetardi Tri Cahyono, Wina Erni, and Taufik Hidayat, "Criminal Law Reconstruction Against Cyber Crime in the Indonesian Criminal Justice System: Criminal Law Reconstruction Against Cyber Crime in the Indonesian Criminal Justice System," *Dame Journal of Law* 1, No. 1 (2025): 1–23.

## **6. Weak Enforcement Mechanisms and Corporate Sanctions**

Although the concept of corporate accountability is recognized in the Indonesian legal system, there is no effective enforcement mechanism for digital entities that violate the principle of information transparency. (Wiratama & SH, nd) Corporations operating digital asset platforms are more often subject to administrative sanctions, such as revocation of business licenses or fines, rather than corporate criminal sanctions, because there are no explicit regulations that define insider trading as a criminal offense in the context of digital assets. (Parningotan Malau et al., 2024) As a result, the deterrent effect against misuse of information in the digital asset market is severely weakened. Without the threat of criminal penalties, corporations lack a strong legal incentive to establish internal compliance systems that prevent insider trading. (Novilia & Yusuf, 2024)

## **7. Implications of Legal Vacancies on Certainty and Justice**

This legal vacuum has a direct impact on legal certainty and justice in the digital asset market.(Lahay et al., 2025) For investors, the lack of legal protection from insider trading practices leads to information inequality and the potential for significant financial losses.(Widyoningrum & Muryanto, 2017) For corporations, the unclear boundaries of legal responsibility actually creates regulatory uncertainty that hinders innovation and investment.(Marzuki, 2024)In the context of Gustav Radbruch's legal theory, this situation indicates an imbalance between legal certainty, utility, and justice, where regulations lag behind digital socio-economic realities.(Herlina Ratna, 2025)This situation demands legal reform that is integrative and adaptive to the development of the digital economy, so that the principles of justice, certainty, and legal accountability can be effectively applied in the context of the Indonesian digital asset market.(Kumalasari & Ningsih, 2018)

### **Legal Reform Efforts to Ensure Corporate Accountability in Future Digital Asset Insider Trading Practices**

#### **1. Conceptual Introduction: The Need for Digital Regulatory Reform**

The development of the digital economy has given rise to new, complex forms of financial transactions, including trading in digital assets such as (cryptocurrencies). and tokenized assets).(MR Maulana, 2024)This phenomenon creates new legal risks, one of which is insider trading practices carried out by corporate entities through the manipulation of non-public information on digital asset platforms. However, the legal framework in Indonesia has not fully accommodated the decentralized, cross-jurisdictional, and blockchain-based characteristics of digital markets.(Mufrihah & Najmudin, 2024)Therefore, legal reform is an urgent need to ensure corporate accountability while maintaining the integrity of the digital asset market.

## 2. Establishment of a Special Law on Digital Assets

The primary step in legal reform is the creation of a specific Digital Asset Law that regulates legal, economic, and criminal aspects within a single national framework. This law should:(SH Peryanto, 2025)

- a. Establish a legal definition of digital assets that includes tokens, crypto coins, NFTs, and other digital instruments as legal objects;
- b. Regulates transparency obligations and reporting of material information by corporations that organize digital asset platforms;
- c. Include provisions prohibiting and sanctioning insider trading practices in the digital space, as regulated in the UUPM for conventional securities;
- d. Recognize corporations as subjects of criminal law, with clear and proportional accountability mechanisms.

Thus, the Digital Asset Law will serve as a *lex specialis* for crimes involving digital assets, including insider trading, thereby closing the legal vacuum that has existed to date.

## 3. Institutional Harmonization between OJK and Bappebti

Legal reform efforts also need to be implemented through institutional reform, particularly in terms of coordination and harmonization of authority between the Financial Services Authority (OJK) and Bappebti. Possible steps include:(Mulyana et al., 2025)

- a. Integration of digital asset oversight functions under a single national financial authority, for example by establishing the National Digital Asset Supervisory Agency (LPADN), which combines the functions of investor protection (OJK) and futures trading oversight (Bappebti).
- b. Implementation of inter-agency regulations that enable data exchange and joint oversight of the activities of digital asset management corporations.
- c. The development of Guidelines for the Prevention of Insider Trading in Digital Assets as a derivative of the upcoming law, with compliance standards that must be implemented by every digital corporation.

Coordination between institutions is important to prevent regulatory gaps, where perpetrators can exploit differences in authority between authorities to avoid legal responsibility.

#### 4. Implementation of Corporate Criminal Liability Principles in the Digital Space

To effectively hold corporations legally accountable, the principles of corporate criminal liability must be adapted to the digital context. Concrete steps that could be outlined in the legal update include:(KT Wibowo & SH, 2025)

- a. Establishes that corporations can be held criminally liable if insider trading is carried out by directors, employees, or electronic systems under the corporation's control.
- b. Recognizing actions through digital systems (automated or algorithmic actions) as legal actions that can be accounted for to corporate entities.
- c. Applying multiple sanctions, such as criminal fines, freezing of business activities, revocation of operational permits, and publication of sanctions for a deterrent effect.
- d. Requires every digital platform to implement an internal compliance program (corporate compliance system) to detect potential insider trading.

With this model, corporate responsibility is not only reactive (after a violation occurs), but also preventive, through the implementation of an effective internal control system.

#### 5. Modernization of Legal Instruments: Regulatory Technology (RegTech)

Legal reform efforts also need to adopt regulatory technology (RegTech) as a tool for oversight and enforcement. RegTech enables authorities to:(Saifullah et al., 2023)

- a. Perform real-time transaction analysis to detect insider trading patterns;
- b. Using artificial intelligence (AI) to identify links between internal corporate accounts and suspicious trading activity;
- c. Building a national digital asset database that integrates transaction data, actor identities, and corporate activities.

The implementation of RegTech will strengthen the ability of law enforcement to find electronic evidence and identify the relationship between corporations and individual perpetrators, making it easier to prove corporate criminal liability.

## 6. Harmonization of National Law with International Standards

Because digital asset transactions are borderless, national legal updates also need to align with international standards. Indonesia can refer to:(Nugraha et al., 2025)

- a. The US Securities and Exchange Commission (SEC) oversight model has already prosecuted several crypto corporations for insider trading;
- b. The European Union regulatory framework (MiCA-Markets in Crypto Assets Regulation) which regulates the legal responsibilities of digital asset service providers;
- c. The Financial Action Task Force (FATF) principles on transparency and anti-money laundering (AML/CFT) are relevant to digital assets.

Through this harmonization, Indonesia can build a legal system that is globally competitive but remains contextual to the national legal system (civil law system).

## 7. Strengthening Enforcement and Sanction Mechanisms

Legal reform also needs to be accompanied by strengthening law enforcement mechanisms and corporate sanctions systems. Several steps that can be implemented include:(SINAGA, 2024)

- a. Establishment of a special digital asset investigation unit under the Prosecutor's Office and the Police in collaboration with financial authorities;
- b. Implementation of digital asset seizure as a form of criminal sanction;
- c. Regulation of administrative and ethical sanctions for corporations that neglect to supervise the use of internal information;
- d. Providing incentives for whistleblower protection in digital insider trading cases.

With this mechanism, legal updates are not only normative, but also operational and applicable in the field.

## 8. Building Legal and Ethical Awareness of Digital Corporations

Legal reform efforts cannot succeed without the support of a strong legal culture among industry players.(Setiawan & Afita, 2025)Therefore, it is necessary:

- a. Improving digital legal literacy for managers and employees of digital asset corporations;
- b. Implementation of the professional code of ethics for digital market operators, which requires transparency and integrity in information management;
- c. Integration of digital business law and ethics education in the digital finance industry certification program.

This corporate ethics will strengthen the function of law as social engineering, not just a repressive instrument.

## CONCLUSION

Corporate liability for insider trading practices on digital asset platforms in Indonesia remains lacking in norms, as the existing regulatory framework has not fully adapted to the characteristics of blockchain technology and the nature of digital assets. Although the 2023 Criminal Code recognizes and regulates corporate criminal liability, its implementation has not been optimal due to disharmony with the capital market legal regime, overlapping authority between the Financial Services Authority (OJK) and the Commodity Futures Trading Regulatory Agency (Bappebti), unclear legal standing of digital platform operators, and weak law enforcement instruments. This has resulted in legal uncertainty for business actors and minimal protection for investors against the misuse of non-public information. Therefore, more comprehensive regulatory reform is needed through the establishment of a Digital Asset Law, alignment of authority between institutions, strengthening the concept of corporate criminal liability, utilizing surveillance technology, and improving ethical standards and internal corporate compliance. These reforms are prerequisites for building a more transparent, accountable, and justice-oriented digital asset market ecosystem.

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## HERMENEUTICS OF THE QUR'AN IN DIGITAL SPACE: DISCOURSE ANALYSIS OF INTERPRETATION AND RELIGIOUS AUTHORITY

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### **Abstract**

Digital transformation has reshaped how Muslims access, interpret, and share the Qur'an. If previously interpretation was dominated by scholars through classical texts and formal forums, today the digital sphere enables the rise of new authorities fluid, populist, and often detached from traditional scholarship. This paper explores Qur'anic hermeneutics in digital spaces by examining interpretive discourses and the construction, negotiation, and contestation of religious authority. Using critical discourse analysis, the study investigates practices on social media, YouTube, and digital da'wah platforms to uncover underlying power relations, ideological currents, and strategies of legitimacy. Findings reveal that the digital realm is not merely a medium of dissemination, but a contested arena where classical traditions, puritan currents, progressive interpretations, and lay voices intersect. This dynamic simultaneously fosters democratization of interpretation while risking fragmentation of authority and trivialization of meaning. Hence, Qur'anic hermeneutics in the digital age requires a critical framework attentive to textual, socio-political, and technological dimensions.

**Keywords:** *Al-Qur'an, Digital Hermeneutics, Religious Authority.*

### **Abstrak**

Transformasi digital telah mengubah cara umat Muslim mengakses, menafsirkan, dan membagikan Al-Qur'an. Jika sebelumnya penafsiran didominasi oleh para ulama melalui teks klasik dan forum formal, kini ruang digital memungkinkan munculnya otoritas baru yang lebih cair, populis, dan sering kali terlepas dari tradisi keilmuan klasik. Tulisan ini mengeksplorasi hermeneutika Al-Qur'an dalam ruang digital dengan menelaah wacana penafsiran serta konstruksi, negosiasi, dan kontestasi otoritas keagamaan. Dengan menggunakan analisis wacana kritis, penelitian ini mengkaji praktik di media sosial, YouTube, dan platform dakwah digital untuk mengungkap relasi kuasa, arus ideologis, serta strategi legitimasi yang mendasarinya. Temuan menunjukkan bahwa ranah digital bukan sekadar medium penyebaran, melainkan arena yang diperebutkan, tempat tradisi klasik, arus puritan, tafsir progresif, dan suara awam saling berinteraksi. Dinamika ini sekaligus



mendorong demokratisasi penafsiran, namun juga berisiko menimbulkan fragmentasi otoritas dan trivialisasi makna. Oleh karena itu, hermeneutika Al-Qur'an di era digital memerlukan kerangka kritis yang peka terhadap dimensi tekstual, sosial-politik, dan teknologi.

**Kata Kunci:** *Al-Qur'an, Hermeneutika Digital, Otoritas Keagamaan*

## INTRODUCTION

The development of digital technology has disrupted nearly all aspects of life, including the ways Muslims interact with the Qur'an. In the past, interpretation was produced, distributed, and legitimized through mechanisms of authority such as scholars, pesantren, or formal religious institutions. Today, however, the digital sphere enables anyone to interpret, disseminate, and even assert claims of truth without passing through established epistemological filters. This phenomenon raises a fundamental question: does interpretive authority still rest in the hands of classical scholars, or has it shifted into the digital space fluid, instant, and highly contested?

Within the digital sphere, society has transformed into what Zygmunt Bauman describes as a *liquid society*. This term refers to the condition of late modern society characterized by uncertainty, flexibility, and rapid change. According to Bauman, while solid modernity was marked by stable institutions, relatively firm norms, and long-term orientations such as family, permanent employment, and the nation-state, liquid modernity depicts an era in which everything is fluid, fragile, and easily altered. In liquid modernity, individual identity is no longer permanent but continuously negotiated in response to social and technological demands. Social relations become temporary, consumption takes precedence over production, and life is defined by high mobility. Bauman emphasizes that the freedom offered by liquid modernity also brings insecurity, alienation, and community fragmentation. Thus, liquid modernity serves as Bauman's metaphor for contemporary society—fast-moving, unpredictable, and full of paradoxes—opening opportunities for freedom while simultaneously generating instability and new social risks.

Similarly, Qur'anic hermeneutics has become fluid and fragmented. In the digital context, Qur'anic hermeneutics is not only concerned with the methodology of textual interpretation, but also with power relations, ideological currents, and social legitimacy operating behind interpretive discourses—often experiencing what may be called a *liquid hermeneutics*. Interpretation in digital spaces does not emerge in a vacuum; rather, it is shaped within ecosystems of algorithms, click-based economies, and the logic of popularity, which frequently determine authority more than traditional scholarly legitimacy. As a result, interpretation can function as a tool of political mobilization, a medium of populist da'wah, or even a cultural commodity consumed on a mass scale.

This condition demands a hermeneutical reading that goes beyond textual understanding, requiring the uncovering of digital mechanisms that generate polarization, fragmentation of authority, and even the trivialization of meaning. Thus, Qur'anic hermeneutics in digital spaces must be read not only as the interpretation of texts, but also as the socio-technological field that shapes the interpretation itself. The struggle over authority in the digital sphere is, in essence, a struggle of discourse, where scholars, intellectuals, activists, and ordinary users alike become actors who claim truth and legitimacy.

On the other hand, interpretive authority has always been embedded within hierarchical structures of scholarship—classical exegetes with their monumental works, pesantren institutions, and fatwa councils endowed with social legitimacy. Yet within the digital ecosystem, these boundaries have become blurred. Interpretation can now be produced by anyone, from charismatic scholars to "hijrah" influencers, and rapidly disseminated to millions of users through a single post. This shift presents a dual problem: on one side, it democratizes access to religious knowledge, while on the other, it generates epistemological confusion between scholarly authority and digital popularity.

Furthermore, the digital sphere is inherently non-neutral, as social media algorithms, trending logics, and the attention economy play decisive roles in determining which interpretations surface and which are marginalized. Consequently, religious authority in this context is shaped not only by the intellectual capacity of an exegete, but also by the ability to manage digital visibility. Qur'anic hermeneutics in digital spaces, therefore, cannot be understood merely as a shift in interpretive methodology, but must be read as a discursive arena saturated with power relations, contests of authority, and ideological struggles. Ultimately, interpretation in the digital sphere reflects the transformation of religious authority in the contemporary era a field where tradition, modernity, and technology converge, clash, and simultaneously construct new horizons in Qur'anic studies.

## METHOD

This study employs Critical Discourse Analysis (CDA) as its primary analytical framework. This approach is chosen because Qur'anic hermeneutics in digital spaces involves not only textual interpretation, but also networks of power, ideology, and social relations that shape and contest meaning. Accordingly, the study does not stop at describing interpretations, but seeks to uncover how *tafsir* is produced, disseminated, and negotiated in terms of authority within the digital ecosystem.

The research focuses on digital content, particularly Qur'anic interpretive texts such as social media posts on platforms like TikTok and *da'wah* videos. Equally important are digital interactions—comments, shares, likes, and discursive practices—that contribute to the legitimization or delegitimation of interpretations. The analysis covers three dimensions: textual practices, examining language structures, narratives, and rhetorical strategies in digital *tafsir*; discursive practices, tracing how interpretive texts are produced, circulated, and consumed in digital spaces, including the role of algorithms and popularity logics; and social practices, revealing how digital *tafsir* operates within broader relations of power, ideology, and religious authority.

## RESULTS AND DISCUSSION

### **Qur'anic Hermeneutics in Digital Spaces**

Qur'anic interpretation in digital spaces no longer takes the form of lengthy texts or scholarly works, but is often packaged into short, visual, and populist content. Verses are excerpted as quotations for da'wah memes, short videos, or Instagram captions. This simplification makes interpretation more accessible, yet also risks reducing meaning by neglecting the complexity of classical exegesis. The process of digitalization reflects a shift in orientation—from tafsir as a scholarly discipline to tafsir as a commodity of attention. This transformation occurs due to a significant change in interpretive authority. Scholars with traditional chains of knowledge now compete with "hijrah" influencers, young preachers, and religious celebrities with millions of followers. Such new authorities are often measured more by digital popularity and engagement than by the depth of interpretive methodology. As a result, religious authority becomes fluid, fragmented, and at times banal, as anyone can claim the role of interpreter merely through digital visibility.

Moreover, the digital sphere reveals sharp ideological contestations of interpretation. Puritan groups utilize social media to reinforce literalist readings, emphasizing scripturalism and often rejecting contextual approaches. Conversely, moderate and progressive groups employ digital platforms to promote inclusive, gender-sensitive, and socially just interpretations. This contestation demonstrates that the digital realm functions as a hegemonic arena, where tafsir is not only about competing meanings of verses but also about claims to truth and socio-political legitimacy.

Within social media algorithms, the interpretive space itself becomes a determinant of new authority. Content aligned with trending logics or sensational appeal tends to surface more easily in the digital public sphere compared to serious academic works. Thus, digital tafsir is not merely the product of scholar-community

relations, but also of interactions with technology. Algorithms act as invisible editors that construct meaning and determine who is perceived as authoritative.

Although this phenomenon generates a paradox of Qur'anic hermeneutics in the digital age. On the one hand, digitalization opens the door to the democratization of interpretation, providing space for broad participation of Muslims in engaging with the Qur'an. On the other hand, it produces fragmentation of authority, increases the potential for misinterpretation, and shifts tafsir from an epistemological domain to a pragmatic–populist one. Hermeneutics in this context is no longer limited to reading the text, but must also account for the power of algorithms, market logics, and ideological dynamics that shape digital interpretive discourse.

### **AI and the Symptoms of Fragmented Authority**

The phenomenon of fragmented authority described in this paper resonates with the perspective of Denny JA, delivered in his address at the *Komunitas Puisi Esai* in Jakarta on Friday, March 15, 2024. In his speech, Denny JA presented a provocative theme: "*The Role of Intellectuals, Priests, and Monks Will Be Replaced by Artificial Intelligence.*" He argued that artificial intelligence has already entered the religious lives of communities. Smart technologies have penetrated Protestant churches, Buddhist temples in Japan, and major mosques in Saudi Arabia. Denny JA recounted these developments: in the Protestant Paul Church during the summer of 2023, 300 congregants listened attentively to a religious sermon delivered by an AI-powered robot. A similar case occurred at the Kodai-ji Buddhist Temple in Japan, where since 2019 worshippers have been able to consult the AI-driven monk *Kannon Mindar* for advice based on Buddhist doctrine.

In Saudi Arabia's Grand Mosque, since 2023 AI robots have been deployed to answer public inquiries in 11 languages. Worshippers can request information about the imam, receive spiritual lectures, or hear Qur'anic recitations. They may even interact via video with local scholars integrated into the AI system. Meanwhile, in June 2023, the Vatican issued a 140-page code of ethics outlining permissible and

impermissible uses of AI in Catholic religious services. Across Protestantism, Buddhism, Islam, and Catholicism, the presence of artificial intelligence has become increasingly intense. This reality raises a critical question: in the future, will the roles of scholars, imams, priests, and monks be supplanted by AI robots? Denny JA elaborated on this question by identifying several key issues.

First, the capacity of artificial intelligence surpasses that of any individual scholar, imam, priest, or monk in terms of breadth and depth of religious information. AI systems can store all scriptural verses, the social contexts in which they emerged, the historical development of doctrines, the finest religious sermons ever delivered, the most profound religious poetry ever written, and provide services in 40 international languages. No single human scholar can master such vast knowledge, but AI can process and integrate it. Second, AI offers uninterrupted service—24 hours a day—whereas human religious leaders must rest, sleep, and take leave. AI can be consulted at any time, even at 2 a.m., when individuals struggle with insomnia or loneliness. Third, scholars, priests, and monks may be biased toward particular sects or ideological perspectives, while AI can compare diverse interpretations and highlight universal and enduring aspects of religious doctrine. Fourth, human religious leaders inevitably fall ill and die, whereas AI robots continue to “live,” constantly upgraded with new information and updated capabilities.

These four factors gradually but inevitably position artificial intelligence as superior to any individual scholar, imam, priest, or monk in terms of religious knowledge and service. While human religious leaders will continue to play a role, their dominance will diminish, leading to the fragmentation of religious authority under the pressure of AI and media politics. Ultimately, this dynamic points toward struggles over image and identity, culminating in contests of religious legitimacy in the age of artificial intelligence.

## **Digital Hermeneutics**

As discussed in this paper, the digital sphere opens opportunities for anyone to interpret the Qur'an. This phenomenon generates two perspectives: on the one hand, the democratization of interpretation makes *tafsir* more inclusive, participatory, and closely connected to the everyday experiences of Muslims. On the other hand, it produces a crisis of authority, as claims of interpretation are no longer based on scholarly chains of transmission or rigorous methodology, but rather on digital popularity. Social media algorithms further determine which interpretations appear on users' feeds, often privileging sensational, provocative, or populist content. This dynamic leads to the commodification of *tafsir*, where verses are transformed into content material for the sake of engagement. Algorithms simultaneously create echo chambers that reinforce the views of particular groups.

Classical hermeneutics emphasized the triadic interaction of text, context, and readers, as well as Gadamer's hermeneutic triad of text, author, and readers. In digital spaces, however, media and technology must be added as formative factors of meaning. Interpretation is not only about understanding texts, but also about digital mediation. Digital hermeneutics thus opens new possibilities for reading, while also carrying the risk of reducing meaning due to short-form formats.

In the framework of digital hermeneutics, Alberto Romele emphasizes interpretation as a process of meaning-making. Traditional hermeneutics focused on texts, language, and human interpretation. Romele expands hermeneutics into the digital realm, where interpretation is carried out not only by humans but also by machines, algorithms, and digital media. Technologies such as search engines, social media, and algorithms are not neutral tools but active agents that mediate and shape interpretation. For instance, Google search results, AI systems, or YouTube recommendations represent forms of algorithmic hermeneutics—machines themselves perform interpretation. In this sense, interpretation is not only human but also digital, through data mining, pattern recognition, and machine learning. Digital interpretation is automatic, massive, and data-driven, differing from human interpretation, which is reflective and historical. Yet both influence each other:

humans interpret through digital media, while digital media shape how humans understand the world. Ultimately, meaning production in the digital age is a collective endeavor between humans and technology.

This collective work between humans and technology aligns with Donna Haraway's notion of the cyborg—an organism-machine hybrid. The cyborg serves as a metaphor for human identity in the technological era, symbolizing the interconnectedness of humans and technology that dissolves conventional boundaries. Reality has become hybrid, where humans are not merely biological bodies but are integrated with digital tools and data. Thus, digital hermeneutics is not simply about individual interpretive experience, but about the relationship between author and reader now embedded in networks of data, avatars, social media, and digital devices. In this cyborg condition, hermeneutics merges with biopolitics, as interpretation is shaped not only by human agency but also by those who control technology—since whoever controls technology also controls how humans construct themselves and their interpretations.

**An Example of Qur'anic Interpretation Using Fazlur Rahman's Double Movement Method** The first movement involves contextual understanding of the past. At this stage, the interpreter must grasp the Qur'anic text within the socio-historical context in which the verses were revealed. The aim is to identify God's intent as bound to the specific situations and conditions at the time of revelation to the Prophet Muhammad. This requires examining the *asbāb al-nuzūl* (occasions of revelation), as well as the social, political, cultural, and moral values of seventh-century Arabian society. Rahman argues that understanding the original context of the Qur'an is a crucial step to avoid misinterpretation. The interpreter must discern the underlying moral objectives of the laws or commands contained in the text, rather than limiting interpretation to their literal meaning.

The second movement involves application to the present context. After uncovering the moral message and fundamental objectives of the text in its historical

setting, the interpreter must then bring these meanings into the contemporary context. This means applying the universal moral and ethical principles of the Qur'an to modern society, while taking into account the social, economic, cultural, and political changes that have occurred since the time of revelation. Fazlur Rahman maintains that Qur'anic laws and commands are flexible, with their ultimate purpose being the establishment of social justice and human welfare. Therefore, specific rules that were relevant in the Prophet's era may need to be adapted or reinterpreted to address the challenges of modern times, without neglecting the moral principles and ultimate objectives intended by the text.

This theory is not merely a bridge between textualist and contextualist groups, but rather a dynamic and critical process that moves between the two. It implies that interpretation must be carried out continuously, since society itself is constantly changing. A rigid understanding of the text without considering social dynamics risks rendering Qur'anic laws irrelevant, while an interpretation that completely detaches from the original context of the text may distort the Qur'an's core moral message. Fazlur Rahman emphasizes that the Qur'an carries an ideal moral vision that must be realized in social practice. For example, laws related to women's rights, slavery, and social justice were historically contextual, yet their ultimate purpose was to achieve broader justice and human equality in the modern era. Thus, while specific rules may change, the underlying moral values must remain intact.

An illustration of hermeneutical analysis within the double movement framework can be seen in two cases. First, regarding *riba* (usury). The Qur'an strictly prohibits *riba* because it caused exploitation and social injustice in pre-Islamic Arab society. Rahman argues that interpreters must grasp the moral objective of this prohibition—namely, protecting the poor from economic oppression. In the modern era, financial transactions have evolved, and the task of Muslims is to apply the principle of anti-exploitation within today's economic systems, rather than focusing solely on the literal prohibition of *riba*. Second, women's rights. Many Qur'anic verses address women's rights within the cultural context of seventh-century Arabia, where

women had limited freedoms and entitlements. Rahman suggests that the moral purpose of these verses was to elevate women's status and grant them fair rights. Therefore, modern interpretation must prioritize gender equality in line with the Qur'an's overarching values of justice.

## CONCLUSION

Qur'anic hermeneutics in digital spaces demonstrates that interpretation is no longer monopolized by classical scholarly authorities, but emerges within discursive dynamics that are fluid, open, and interactive. Digitalization creates opportunities for the democratization of knowledge, yet at the same time raises challenges concerning legitimacy, authority, and authenticity of interpretation. Therefore, the digital sphere must be understood not merely as a medium of distribution, but as a new *habitus* in the formation of meaning and religious authority that is continuously transforming.

Ultimately, the digital realm not only changes the way Muslims access interpretation, but also reshapes how they perceive religious authority itself. Interpretation in the digital age becomes easier, faster, and more accessible, yet it must be approached critically to avoid losing its depth and authenticity.

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