



Juridical Review Concerning the Legitimacy of Cryptocurrency in Islamic Law

Christopher Panal Lumban Gaol¹, Utzinger Morales², Vanella Lopez³

¹ Catholic University of Saint Thomas Medan, Indonesia

² The Ohio State University, United States

³ Tel Aviv University, Israel

Corresponding Author: Christopher Panal Lumban Gaol, E-mail; c.topherg@gmail.com

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ABSTRACT Cryptocurrency has become a significant phenomenon in the global financial world. However, within the context of Islamic law, questions regarding the validity and regulation of cryptocurrency remain a complex debate. This research aims to conduct a normative juridical analysis of cryptocurrency regulation in Islamic law, with a focus on a case study in Indonesia. The research method employed is a normative juridical approach, involving the collection and analysis of legal data from relevant sources, such as laws, regulations, and religious fatwas. This legal data is then analyzed using legal arguments and theoretical frameworks to understand and explain the legal status of cryptocurrency within Islam. This study identifies key issues that arise in the regulation of cryptocurrency in Islamic law in Indonesia, including <i>riba</i> (interest), <i>gharar</i> (uncertainty), <i>maysir</i> (gambling), and consumer protection. Through this normative juridical analysis, the researcher explores existing legal interpretations, relevant legal documents, and the perspectives of Islamic scholars and experts regarding the validity and permissibility of cryptocurrency. The findings of this research provide an in-depth understanding of how cryptocurrency can be categorized within the framework of Islamic law, as well as the legal implications arising from the use and trading of cryptocurrency. Additionally, this study identifies gaps and challenges in the regulation of cryptocurrency in Islamic law in Indonesia and provides recommendations for the development of more effective regulations that align with Islamic principles. <i>Cryptocurrency</i> Keywords: <i>Cryptocurrency, Islamic Law, Regulation</i>			

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INTRODUCTION

In an increasingly advanced digital era, technological developments have given rise to various innovations, one of which is cryptocurrency (Gkeredakis dkk., 2021; Jacobs & Tschötschel, 2019; Kim dkk., 2019). Cryptocurrencies, or cryptocurrencies, have become a topic that is increasingly attracting the attention of people and investors around the world. However, in the context of the Islamic religion (Islami, 2019), questions about the legitimacy and halal use of cryptocurrencies are still an interesting debate.

Cryptocurrency, or crypto currency, is a digital form of currency that uses cryptographic technology to secure transactions (Chen dkk., 2022; Walden dkk., 2020),

control the creation of new units, and verify asset transfers. Cryptocurrencies are based on blockchain technology (Salmela dkk., 2022), which is a decentralized ledger that records all transactions made with cryptocurrencies.

One of the defining characteristics of cryptocurrencies is that they are not regulated or controlled by a government authority or a central financial institution such as a bank. They operate in a decentralized manner, allowing users to carry out peer-to-peer transactions without intermediaries.

The main uniqueness of cryptocurrencies is the underlying technology, namely the blockchain. Blockchain is a series of blocks that are connected to each other chronologically (Steenkamp dkk., 2022), where each block contains transaction information that is secured with cryptography. The transaction verification process is carried out by a globally connected network of computers, known as miners or validators. These miners use their computing power to solve complex mathematical equations, which earns them the right to validate transactions and earn rewards in cryptocurrency.

Cryptocurrencies have some interesting characteristics (Hanafi dkk., 2021; Pinkney dkk., 2020). First, they tend to have limited supply, meaning there's a maximum number of units there will ever be. This can provide an element of limitation and uniqueness of value that differs from traditional currencies whose supply can be expanded by central banks. In addition, cryptocurrency transactions can be carried out at relatively low fees and in a faster time compared to traditional financial systems.

Over the last few years, cryptocurrencies have become an increasingly popular and in-demand topic. Many people see the potential in this technology to change the way we interact with money and the financial system (Kumari dkk., 2020). However, due to their relatively new and complex nature, cryptocurrencies also have risks and challenges that need to be considered, such as high price volatility, potential for illegal activities, and regulatory challenges.

The use of cryptocurrencies has expanded, from investment and speculation, to as a means of payment in several online transactions. Besides Bitcoin, there are also various other types of cryptocurrencies, such as Ethereum, Ripple, Litecoin, and many more, which have different features and purposes.

It is important to note that views and approaches to cryptocurrencies can vary across countries and jurisdictions (Hansen, 2020). Regulation around cryptocurrencies is constantly evolving, with efforts to regulate and monitor their use in order to protect consumers, prevent money laundering, and maintain financial stability.

In Islam, laws related to finance and investment have a strong foundation. Principles such as the prohibition of usury (interest), gharar (uncertainty), maysir (gambling), and justice serve as the basis for judging whether a financial instrument or investment is permissible or not in this religion. In the context of cryptocurrencies, the opinions of Islamic scholars and scholars vary (Lercari dkk., 2021), and there are different approaches in evaluating their legitimacy and halalness.

Some scholars argue that cryptocurrencies are incompatible with Islamic principles. They see it as mere speculation, without a clear basis and potentially involving usury,

gharar and maysir (Madyatmadja dkk., 2021; Mohamed & Ali, 2021). Their argument is that the value and price fluctuations of cryptocurrencies are sometimes driven by speculation and opaque market activity. Additionally, there are concerns that the use of cryptocurrencies may provide an opportunity for illegal activity, money laundering and fraud.

However, on the other hand, there are also scholars who allow the use of cryptocurrencies with several conditions. They argue that cryptocurrency can be considered as a legitimate form of digital asset or commodity, which can be traded according to Islamic principles (Fajar Ikhsan dkk., 2020). The conditions put forward include clarity in transactions, limited uncertainty, and the absence of elements of usury. In addition, the importance of transparency, fairness and compliance with applicable laws in the use of cryptocurrencies is emphasized.

In this evolving context, there is no clear consensus among scholars about the legitimacy and halalness of cryptocurrencies in Islam. Therefore, it is very important for Muslims who are interested in cryptocurrencies to look for pe

RESEARCH METHODOLOGY

The research method in this study uses the normative juridical research method. The normative juridical research method is the approach used in legal research to analyze legal regulations and other legal documents. This method focuses on analyzing existing legal norms and using legal arguments to understand and explain the legal issues being researched.

In normative juridical research, researchers collect data from relevant legal sources, such as laws, regulations, court decisions, constitutional documents, and legal literature. Then, the data is critically analyzed using theoretical approaches and legal arguments to explore the meaning, purpose and impact of existing legal regulations.

The normative juridical research method involves the following steps: Legal data collection: Researchers collect data from a variety of relevant legal sources, such as laws, regulations, and court rulings. These sources provide the legal basis on which the research focuses. Legal analysis: The collected legal data is then analyzed using appropriate legal arguments and theoretical approaches. Researchers identify relevant legal norms, interpret the meaning and purpose of legal regulations, and analyze the relationship between different legal regulations. Drawing conclusions: Based on the legal analysis conducted, researchers draw conclusions regarding the legal issues studied. This conclusion is based on legal reasoning and deep understanding of existing legal regulations.

The normative juridical research method has several advantages. First, this method allows researchers to understand and explain the existing legal framework and provides an in-depth understanding of applicable legal norms. Second, this method allows researchers to provide recommendations or legal advice based on a consistent and tested analysis of legal arguments.

RESULT AND DISCUSSION

The European Central Bank classifies cryptocurrencies as a subset of virtual currencies, and defines them as digital currencies that are not regulated, are normally issued and controlled by their developers (Eksteen, 2019), and are used and accepted among members of a particular virtual community.

Ferry Mulyanto, cryptocurrency is a digital currency that uses cryptographic technology as security and is difficult to fake and where transactions can be carried out or must be carried out in the internet network (online) for each data transaction will be encoded using a certain cryptographic algorithm.

The difference between cryptocurrencies and existing currencies is that cryptocurrencies are not issued by a central authority (Gabriela dkk., 2022; Qureshi dkk., 2022), there is no interference or manipulation by the government. Initially, cryptocurrencies were not seen as exchange rates that could represent existing digital currencies. However, because of its rapid development, this crypto currency was immediately known by many people.

The complete description of the results of the MUI discussion regarding cryptocurrency law is as follows: The use of cryptocurrency as a legal currency is illegal. Why is crypto illegal? Because it contains gharar, dharar and contradicts Law 7/2011 and BI Regulation 17/2015. Cryptocurrency as a digital commodity/asset is not legally traded because it contains gharar, dharar, qimar and does not meet the syar'i requirements of sil'ah (commodity assets), namely: there is a physical form, it has value, the amount is known for sure, property rights and can be delivered to the buyer. Cryptocurrency as a commodity/asset that fulfills the requirements as a sil'ah and has an underlying (underlying asset) and has clear legal benefits to be traded.

Cryptocurrencies are digital currencies that are not centralized by banks, and are created using computer encryption technology recorded on the Blockchain platform. Cryptocurrency transactions are carried out without intermediaries, meaning digital payments go directly from sender to receiver (Kartel dkk., 2022). One of the most well-known cryptocurrencies is Bitcoin which is also known as the first cryptocurrency. This Bitcoin was created by a programmer under the pseudonym Satoshi Nakamoto. Over time, many new crypto currencies have emerged.

In early 2021, Bitcoin became one of the many crypto assets whose value has increased many times. This rapid increase was also followed by a sharp decline that occurred last May (Dewi S dkk., 2022; Keshav dkk., 2022). These unstable fluctuations make the debate about crypto assets even hotter. In Indonesia itself, cryptocurrency trading is legalized in CoFTRA Regulation Number 5 of 2019 concerning Technical Provisions for Organizing the Physical Market for Crypto Assets on the Futures Exchange. Even so, this new regulation can still pose risks for cryptocurrency customers. Cryptocurrency as a means of payment is still being debated in Indonesia and other countries. One of them is that the elements and criteria for Bitcoin and other digital currencies have not been fulfilled as the applicable currency (Demina dkk., 2022; Hikmah dkk., 2022). Even Bank Indonesia prohibits the use of cryptocurrencies as a means of payment and only recognizes Rupiah.

DSN-MUI has not/did not release a fatwa regarding fiqh law on transactions with Bitcoin. However, it can be viewed by looking at the conditions for an object to be regarded as money according to Al-Ghazali: the money is printed and circulated by the government, the government states that the money is legal tender in an area, and the government has gold and silver reserves as a yardstick (Anoum dkk., 2022). of money in circulation. The issue of cryptocurrencies has also begun to be frequently discussed by Islamic scholars because of course, an Islamic perspective is needed to see the phenomena that are happening now.

Having no physical form such as cash currency, cryptocurrency cannot be stored in a bank or e-wallet. Cryptocurrencies are stored on the blockchain which plays a role in regulating and managing currency transaction data in the digital realm. This system makes crypto transactions open and free, and anonymous. Apart from Bitcoin, several types of cryptocurrencies are Ethereum, Ripple, Litecoin, Dogecoin, EOS, Tron, Stellar, and Cardano. Now crypto investment is in great demand by various groups from not only in Indonesia, but also around the world (Firman dkk., 2022; Ilham dkk., 2022). In Indonesia, where the majority of the population is Muslim, questions arise about the halal status of this investment instrument. To determine this, the Indonesian Ulema Council (MUI) has provided eleven records related to crypto assets such as Bitcoin. The note states that as an investment, Bitcoin is more like gharar or speculation that harms other people. This is because crypto investments do not have underlying assets. In addition, the price also fluctuates, and nothing is officially guaranteed. Therefore, the speculation is that it is very likely that crypto investment is haram (Safitri dkk., 2022). The MUI in the note also called Bitcoin investment illegal. However, if Bitcoin is only used as a medium of exchange, it is permissible (permissible) for those who want to use and acknowledge it.

MUI's response to crypto. For more details, here are eleven points of notes from MUI on crypto. Check out these things before you actually use it: Bitcoin is the result of the development of digital technology with a digital market mechanism that is completely dependent on demand and supply – The goal is to create investment and a medium of exchange that is not directly controlled by any central bank and government in the world. The spread is done through P2P networks – Currencies like Bitcoin and others only exist on a blockchain network that records all transactions of its users. Bitcoin began to be used in 2009 - Apart from being a cryptography-based currency, Bitcoin is also used to support buying and selling with crypto currency. There is no regulation by the government governing cryptocurrencies – This currency is also not recognized as a legal currency. In a number of countries Bitcoin is a foreign currency – Bitcoin is not recognized as the official currency and medium of exchange, so currency trading is chancy. Bitcoin, considered by some scholars, is the same as money - However, some other scholars do not recognize Bitcoin as equal to money just because there are still many general public who reject Bitcoin as an accepted medium of exchange, standard of value, and a means of saving. Definition of money - Buhuts fi al-Iqtishad al-Islami, 1996, page 178 defines money as anything that is a medium of exchange and is generally accepted, regardless of its form and condition. Currency buying and selling transactions are permitted based on

the fatwa of the MUI National Sharia Council - with the condition that it is not for profit alone. In addition, the value must also be equivalent to legal cash currency. Bitcoin law as a medium of exchange – The condition is that there must be handover and the same quantity if the type is the same. As an investment, Bitcoin is closer to gharar - This means that there is a possibility of luck that harms people, so it can be called haram. As a medium of exchange, Bitcoin is legally permissible for those who wish to use it – Bitcoin as a legal investment is unlawful because it is just a chance, not for investment.

On Tuesday 18 January 2022, the latest fatwa was issued by the Tarjih and Tajdid Councils of the Muhammadiyah Central Management regarding the use of cryptocurrency. The Tarjih and Tajdid Councils of Muhammadiyah's central management view the polemic of cryptocurrencies as being an investment instrument and a medium of exchange. As an investment tool, this cryptocurrency has many drawbacks when viewed from Islamic law, such as its speculative nature which is very obvious. The value of bitcoin as a type of cryptocurrency is very fluctuating with unnatural increases or decreases (Hartini dkk., 2022). Crypto is also said to contain gharar or obscurity. Bitcoins are just numbers without any underlying assets, assets that guarantee bitcoins, such as gold and other valuables. This speculative nature and gharar are prohibited by the Shari'a like the Word of Allah and the hadith of the Prophet SAW and do not meet the values and benchmarks of business ethics according to Muhammadiyah, especially these two points, namely: no gharar (HR. Muslim) and no maysir (Q.S) al-Maidah: 90). The Tarjih Assembly considers that the standard currency used as a medium of exchange should fulfill two conditions, namely being accepted by the public and being ratified by the state, which in this case can be represented by an official authority such as the central bank.

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CONCLUSION

The European Central Bank classifies cryptocurrencies as a subset of virtual currencies, which are unregulated, issued and controlled by their developers, and used and accepted within a specific virtual community. Cryptocurrency is a digital currency that uses cryptographic technology for security and transactions are carried out online. Cryptocurrency is not issued by any central authority and there is no interference or manipulation by the government. According to the Indonesian Ulema Council (MUI), the use of cryptocurrency as currency and investment is illegal, because it contains elements of gharar, dharar, and does not qualify as a commodity asset according to sharia. However, if it is used only as a medium of exchange, the law is permissible. Cryptocurrencies such as Bitcoin are stored on blockchain platforms, transactions are carried out without intermediaries, and their value fluctuates a lot. In Indonesia, cryptocurrency trading is legalized in CoFTRA Regulation Number 5 of 2019, but there are still risks that customers must pay attention to. Opinions regarding fiqh law of transactions with Bitcoin are still being debated, but some scholars see that Bitcoin does not qualify as money according to Al-Ghazali. There are differences of opinion among Islamic scholars and organizations regarding the halalness and use of cryptocurrency, and some argue that cryptocurrency does not qualify as a sil'ah (commodity asset) according to sharia. Muhammadiyah and LBMNU East Java stated that cryptocurrencies, including Bitcoin, are illegal because they are speculative, fluctuating, do not have underlying assets, and do not meet the requirements of sil'ah. The Indonesian government has regulated cryptocurrency as a commodity or buying and selling crypto assets through several policies to accommodate cryptocurrency trading.

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